

REDEVELOPMENT  
BOON OR BOONDOGGLE?

by  
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## FOREWORD

There are forlorn areas in our cities with broken or boarded up windows, rats, little economic activity, and even less prospect of improvement. Redevelopment is a legal procedure designed to reverse these conditions and to make these areas healthy and productive.

The goal is admirable, but the actual results in curing real blight are not so commendable. Cities and counties, especially in rapidly growing Southern California, have discovered that the powers and financing mechanisms in redevelopment are wonderfully suited to finance newdevelopment, and provide a device to avoid the taxing and spending restraints which apply to normal city and county governments.

The purpose of this analysis is to describe the shortcomings of redevelopment. I served on the Vista city council for eight and a half years, with one term as mayor, so I have some first-hand experience with the subject. I'll present a log of Vista examples, but most of the discussion applies to all of California, and even beyond.

First, we'll look at the essential characteristics of redevelopment, and then at a broad view of what's wrong with it. More specific flaws are examined as we observe its effect on school districts and other taxing agencies, its violation of principles, and its financial weaknesses. I review the difference between newdevelopment and redevelopment, and I provide answers to the usual arguments you may encounter. I describe what's happening to our neighboring cities' redevelopment efforts. Perhaps the most important part is the one on better alternatives, followed by suggestions for better legislation. I conclude with a review of what happened in Vista, and an opinion of judicial performance.

Many references are from REDEVELOPING CALIFORNIA/FINDING THE LEGISLATIVE AGENDA FOR THE 1990'S which was prepared for the Senate Committee on Local Government, dated December 7, 1989. For the sake of brevity I shall refer to it as REDEVELOPING CALIFORNIA. The Committee's REDEVELOPMENT AGENCIES' HOUSING PROGRAMS, dated December 17, 1991, was also very useful. I have shortened also ANNUAL REPORT 1989-90 FINANCIAL TRANSACTIONS CONCERNING COMMUNITY REDEVELOPMENT AGENCIES OF CALIFORNIA, Gray Davis, State Controller, to ANNUAL REPORT.

I am most thankful for the proofreading and editing of my wife and co-conspirator, Selma, and the support of many friends.

Part I  
WHAT IS REDEVELOPMENT?

Redevelopment is a state legislated plan whereby a city council or county board can create a separate governmental agency, usually the council or board itself, with special powers to cure urban blight.<sup>1</sup> The agency can plan, collect taxes, borrow and spend money, and engage in a variety of activities to revitalize any residential, commercial, industrial, or public area as may be appropriate to the general welfare. For a detailed and cheerful description, but without any recognition of blemishes, read CITIZEN GUIDE TO REDEVELOPMENT.<sup>2</sup>

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<sup>1</sup> Health and Safety Code 33000 et seq.

<sup>2</sup> California Redevelopment Association, 1400 K Street, Sacramento, Ca. 95814, (916) 448-8760, or your local redevelopment agency.

The California Health and Safety Code goes into great detail to describe what constitutes blight and how an agency may conduct its activities. The code has been defined further by a large number of court decisions.

The first step is for the council or board to pass an ordinance to establish the agency. Then the boundaries of the blighted area(s) are determined and a plan to cure that blight is devised.

A blighted area is defined as one in which one or more of the following characteristics are present: the existence of buildings and structures which are unfit or unsafe to occupy and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; they are of defective design and character, overcrowded, with inadequate provision for ventilation, light, sanitation, open space, and recreation facilities; they are overage, obsolescent, dilapidated, depreciated, and of mixed character of shifting uses. Lots might be of irregular shapes and sizes, and public improvements and facilities might be inadequate.

To assure that the redevelopment law is used to cure urban blight rather than to develop vacant agricultural land, the code requires that 80 percent of the project be urbanized as shown by the county assessor's records, or that the area is an integral part of an area developed for urban uses.

The plan must provide findings that private enterprise acting alone cannot do the job of revitalization.

Frequently areas are included because they are claimed to be "economically blighted," but mere expectation of economic improvements and the prospect of speculative gains by themselves are insufficient basis for redevelopment; first the area must meet the conditions just described.<sup>3</sup>

The agency must set aside 20 percent of the tax increment, described later, for low and moderate income housing, and the code spells out rules designed to prevent the relocation of housing problems.

Public hearings are required before the plan is adopted, and a citizen project area committee (PAC) is formed to review the plan. After its adoption the PAC can review amendments.

In most cases a specially trained administrator and staff are hired to direct day to day operations. In large cities with large projects, a special commission might be created, not accountable to the voters, to operate the agency. The agency can create a fiscal review committee in addition to the PAC.

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<sup>3</sup> Emmington v. Solano County Redevelopment Agency,  
195 Cal. App. 3d 497, 498, 500.  
Regus v. City of Baldwin Park,  
70 Cal. App. 3d 968.  
Sweetwater Valley Assn. v. City of National City,  
18 Cal. 3d 270, 277.

The agency is virtually another city or county government with almost unlimited power for real estate development, except that it must observe the General Plan. A city may have an ordinance which requires a vote of the citizens before building a new city hall, but the agency can build one without that vote. A city council can borrow any amount and get into debt as long as it can balance its budget on a yearly basis. A redevelopment agency, by contrast, can go into debt for maybe 45 years without voter approval. In fact it cannot collect any tax increment, which I'll explain following, unless it can show a debt. It is not subject to the spending limits of the Gann Initiative as is a city council.

A city council or county board is strictly prohibited from using public funds to enhance private property. By contrast, acting as the redevelopment agency, it is encouraged to make all sorts of real estate deals with private parties to promote the revitalization of private property in the project area. The agency has the option of using eminent domain and condemnation. It has the authority to buy land for a high price and sell it for a low price as an inducement to a developer. It can clear property, construct streets and public--but not private--buildings, relocate people and businesses, and give other incentives.

The agency is specifically prohibited from including areas just to collect the taxes.

Perhaps the agency's outstanding characteristic is its ability to collect the "tax increment" (tax increase) from the blighted project area. After a certain date, all the property taxes in the redevelopment area are "frozen," which means all the various tax agencies: the school district, the county, the city, the community college, etc., will receive virtually the same amount of property taxes each year for the length of the plan, usually 45 years, but the redevelopment agency will collect the increase in property taxes over and above that frozen base.

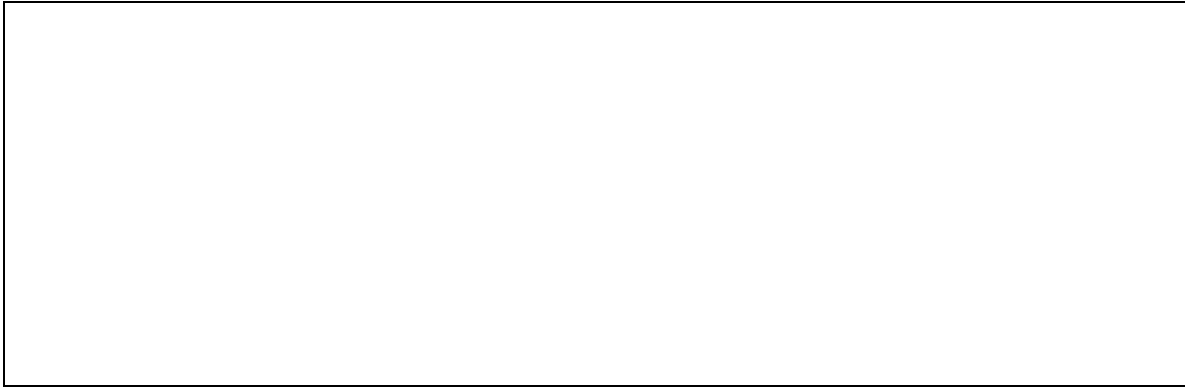
The agency has the authority to make "passthrough agreements" with the various tax agencies to alleviate hardships by giving back some of the tax or something of value (a new school).

In addition to the tax increment, an agency may receive gifts and loans of money from the host city, grants, and other instruments of value. Frequently the city will assign to the agency the sales tax from the project area. Any additional source of revenue improves the agency's ability to borrow or bond. Of course, the more city revenue the agency takes, the less there remains for the normal operation of the city.

Then as a rule of thumb, for each dollar of assets it possesses, the agency can bond itself for another ten dollars, so an enterprising agency soon can have a sizeable working capital to work with, all without specific voter approval.

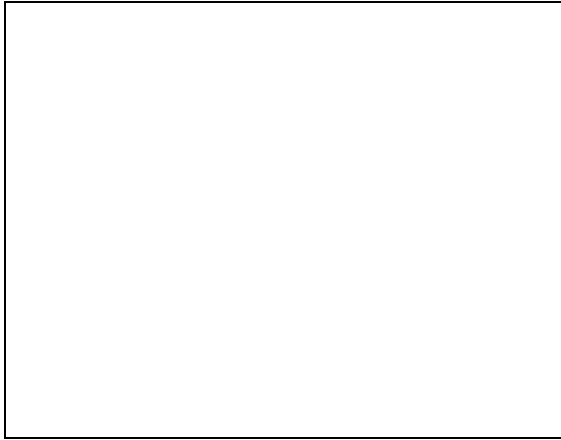
The theory is that this blighted area is stagnating economically, but that through judicious planning and wise use of incentives, the agency can increase the economic well-being of the blighted area and thereby increase its property, sales, and income taxes at a substantially greater rate than before it was redeveloped. In real life, however, redevelopment doesn't necessarily work out as planned.

Part II  
WHAT'S WRONG WITH REDEVELOPMENT?



Keep in mind, these first five parts deal with the redevelopment of blight as envisioned in the government code; newdevelopment, the main activity of many agencies, will be taken up in Part VI. Although proponents use only the first term, it is imperative that the vast difference between the two be understood.

The development of land and structures is a risky business even under the most favorable of circumstances, but especially so under the provisions of the redevelopment law. By now everyone is painfully aware of the savings and loan and bank scandals. Here are professionals whose expertise is in judging what will sell and what won't, what the customers are asking for, and what the capabilities of repayment are.



Shift the scene to five ordinary council people, usually with no experience in either land or money management, with extraordinary power to make real estate development agreements without oversight, and the

results can be quite predictable. When I was on the Vista council, the only member who had any development experience went bankrupt, and another councilmember was forced to resign when he was found padding his expense account.

Accountability is not especially assuring. The code specifically provides that a redevelopment agency is solely responsible for its actions, and that neither the city nor the individual members of the agency are liable,<sup>4</sup> but see Part V on how the city can be financially liable.

When the Plan was adopted in 1987 the Vista Council was struggling with a budget of \$19.4 million. In contrast the Plan estimates the agency will be making decisions involving an estimated tax increment totaling approximately \$578 million which will be accumulating over the next 40 years, plus many times that figure from borrowed money and private investments. Should we have confidence in this council's or any subsequent council's ability to make real estate development decisions of this magnitude?

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<sup>4</sup> Health and Safety Code 33643, 33644

Our economic history is one of booms and busts, and it is presumptuous to expect that redevelopment will be exempt from this pattern, and for 40 to 45 years.

Redevelopment offers a wonderful opportunity for those on the "inside" to leak information about possible future deals, and to respond to clout from influential property owners.

When a council becomes a redevelopment agency, naturally the salaries increase. A councilperson's salary is limited by law but there are other benefits which aren't termed "salary": car allowance, office expense, membership dues, travel expense, health insurance, retirement payments, etc. These additions which are determined by the council itself, are seldom scrutinized by the taxpayers, and are subject to great abuse. Likewise, the same council when it becomes a redevelopment agency receives an additional salary, even though its activities for a long time might consist of, as with Vista's agency, approving the minutes of the previous meeting.

The code limits agency salaries to \$120 per month,<sup>5</sup> but this limit is no obstacle because the code also provides that the agency can transform itself into a Community Development

Commission with the advantage, as explained by our city attorney:

There are no provisions limiting the amount of compensation as there is with regard to the Redevelopment Agency.<sup>6</sup>

and our agency was duly transformed.

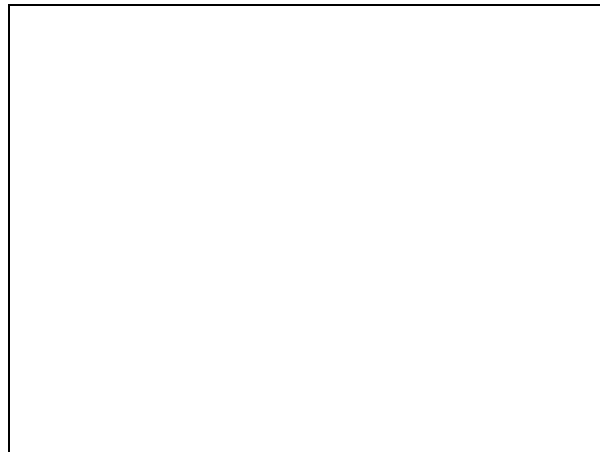
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<sup>5</sup> Health and safety Code 33114.5.

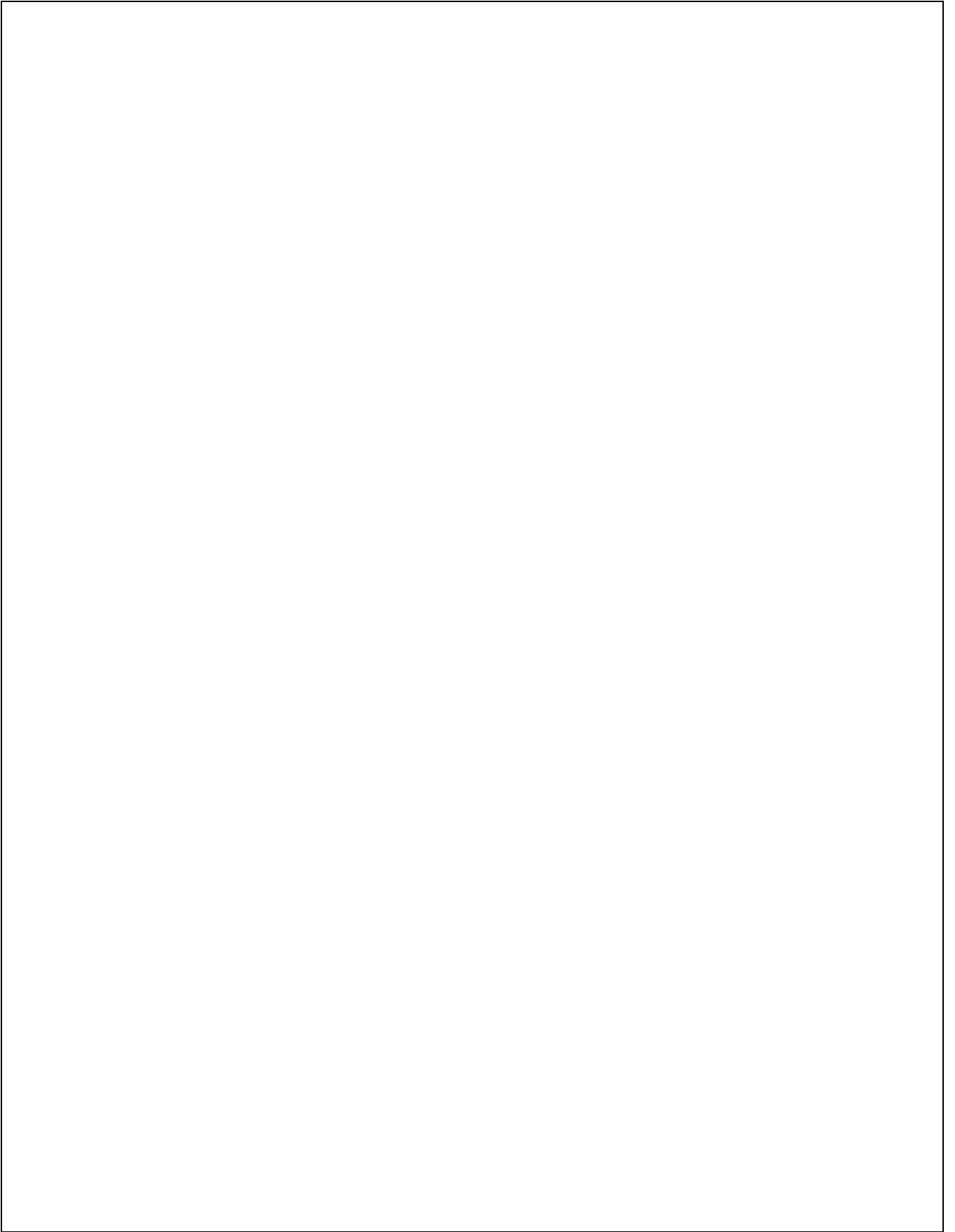
<sup>6</sup> July 30, 1987 Staff report.

The salary of the chief administrator frequently is in the top bracket along with the city manager's and the city attorney's.

The passthrough agreements described in Part I area supposed to alleviate hardship for those tax agencies which provide the tax increment, by returning some of the tax or something of value. It is a useless device because the loss of any amount of tax by a tax agency is always a hardship--unless it didn't need the tax, in which case it shouldn't have collected the tax in the first place. We're merely robbing Peter to pay Paul.



One of the major weaknesses of the redevelopment law is the absence of oversight. In Vista Areas C and D look like an octopus because they were gerrymandered to include such "blighted" areas as the county court house, the banks, the modern offices and restaurant next to Wildwood Park, the Lucky shopping center near Foothill, the medical-dental buildings and proposed shopping center bordering both sides of Highway 78 to Oceanside. There is no outside agency to review whether the redevelopment code has been met. Are the areas really blighted? Were they included just to collect the taxes? To pay for newdevelopment instead of redevelopment?



The code is very explicit in stating that the blighted project area must be predominantly urbanized, in order to prevent the inclusion of non-blighted advantageous rural land. The test is that 80 percent of the project area is developed as zoned as shown by the county assessor's records, or it is an integral part of an area developed for urban uses. Again, no one checks up to ascertain that the code has been met. In Vista two of the most valuable undeveloped, unurbanized, and non-blighted areas were included: Area A, the new Sycamore Industrial Park, and Area B, the vacant but very valuable land next to National University adjacent to Highway 78 and the Sycamore exit.

The proponents make it sound as though "the people," by going through a series of public meetings and hearings, select the area and determine the projects which the agency is to accomplish. In reality, however, these goals are essentially the product of the agency (council), the redevelopment staff, and those who hope to benefit.

These so-called hearing "safeguards" prior to the adoption of the plan are quite meaningless because the most important decisions will not have been made yet; they will come later. No buildings will have been torn down, and the real results and costs cannot be foretold accurately. The agency will not have decided, for example, whether a redevelopment incentive (subsidy) should be high or low. Should land be bought for a million dollars and sold for a tenth of that price? Should the agency demand 10 percent of a business's profits or 50 percent?

Yes, a citizen PAC can put in many hours trying to assist in these matters, especially before the plan is adopted, but it has no authority. It can easily be manipulated, and especially after the plan is adopted, the committee can be ignored. It can be dominated by members looking out for their own interests. In Vista the first major action of the agency was to buy a historic building, Rancho Buena Vista, for \$2.13 million although it wasn't even in the Project Area, and its purchase not in the Redevelopment Plan and counter to the committee's set of priorities.<sup>7</sup>

Even more perverse was its recent priority announcement when my legal challenge ended and the tax increment was assured, to pay for three new bridges over Highway 78, but refurbishing downtown, what the citizens were led to believe was the heart of redevelopment, is on the bottom of the list--later when there is enough money! The bridges are perfect examples of the opposite of blight: they are overloaded from too much development.

State law requires that all members of the committee disclose their economic interests, but no one checks up on them to ascertain whether the disclosures were made or were accurate.

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<sup>7</sup> The State of California offered to buy it for \$1.7 million, without cost to the city, but because the council rezoned it from "Community Facilities" to "Commercial," its appraisal greatly increased, and the State refused to buy it. The redevelopment agency then bought it for \$2.13 million.

Once the public hearings on the plan are over and the plan is adopted, there are no further reviews required of judgments made by the agency except for some yearly reports which must be made to the State. Since uniform bookkeeping statewide is not required, there is great variation, and no one checks up on validity. Even worse, nothing is done with the collected data to enforce the law. Both Governors Deukmajian and Wilson have vetoed bills to let the Attorney General challenge certain redevelopment abuses.<sup>8</sup> The result is the agency can make real estate development decisions a prudent private investor wouldn't touch with a ten-foot pole.

The code also states that redevelopment funds can be used to prepare sites and to construct public--but not private commercial--buildings,<sup>9</sup> yet in Vista the agency has plans to finish a failed new private shopping center. One authority calls such action a "grey area" and says, "Some cities have done so." I would add, "and have gotten away with it."

While Health and Safety code 33333.2 sets time limits on the amount of tax increment reviews, indebtedness, and for a 12 year limit to being using eminent domain, these provisions are quite meaningless because amendments are very easily accomplished, or worse, both can be overlooked. The ease in extending projects almost indefinitely has been called "the closest thing to perpetual motion ever invented by the legislature."<sup>10</sup>

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<sup>8</sup> REDEVELOPMENT AGENCIES' HOUSING PROGRAM.

<sup>9</sup> Health and Safety Code 33440, 33445.

<sup>10</sup> REDEVELOPING CALIFORNIA, p. B-27.

Corona's Downtown Project is estimated to be completed after 74 years in the year 2040! This uncertainty creates a great hardship on affected property owners and a major deterrent to determine costs.



Even though the California redevelopment code has been amended frequently to try to make it more responsive to concerns of the citizens, they have difficulty producing the extraordinary action needed to match the efforts of the proponents. The plan must be adopted by ordinance at a public hearing at which public testimony is taken, but a vote by the citizens is not required. They can, however, require a vote by challenging the ordinance with a referendum petition submitted within 30 days after the first reading.<sup>11</sup> They can challenge likewise any amendment to the plan, which also must be enacted by ordinance.<sup>12</sup> Finally, the voters can by initiative petition repeal the ordinance which set up the agency in the first place, but if it has any liabilities, they must be assumed by the city.<sup>13</sup>

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<sup>11</sup> Health and Safety Code 33101, 33365.

<sup>12</sup> Health and Safety Code 33450.

<sup>13</sup> Health and Safety Code 33141.

Another avenue of challenge is court action, although very limited timewise. If the citizens find the plan faulty, they have the dubious privilege of filing a validation suit in Superior Court within 60 days of the adoption of the ordinance approving the plan (the first reading--not the effective date).<sup>14</sup> Concurrently they should challenge its EIR within 30 days after the filing of the Notice of Determination<sup>15</sup> because thereafter the findings in an unchallenged EIR are conclusively presumed (legally established), and can severely limit what can be challenged in a validation suit. They at any time can challenge also illegal implementation of the plan, not the plan itself. But beware, the agency has no limit on litigation funds.

Public hearings are not always conducted in the best interests of the citizens, and referendums and initiatives are difficult and time consuming. All these devices will be countered by lots of public money and effort by the council/agency for "educational" material to influence the voters, and more money and effort by the developers and other beneficiaries of redevelopment.

Public funds cannot be spent legally to advocate either for or against issues in an election,<sup>16</sup> but by presenting selected "facts" in expensive mailings, slide shows, and videos, where a specific "Vote Yes" or "Vote No" are omitted, a council/agency can circumvent the law. Such actions are pretty much David and Goliath actions because the council/agency has no limit to what it can spend. In Vista's last redevelopment advisory vote the proponents outspent the opponents twelve to one, not including what the council/agency spent.

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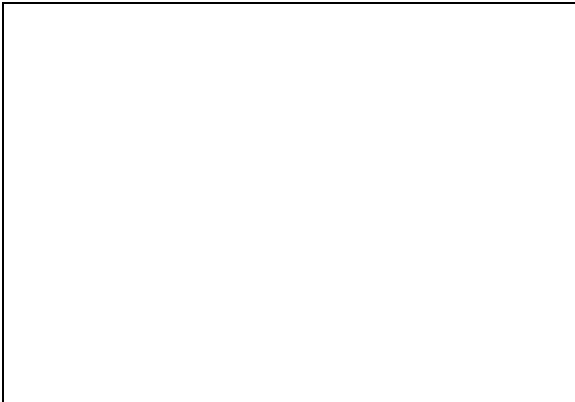
<sup>14</sup> Health and Safety Code 33500; Code of Civil Procedure 860.

<sup>15</sup> Public Resources Code 21167 and 21167.2.

<sup>16</sup> Stanson v Mott 17C 3d, 206.

Court action to stop such abuses can be attempted here too, or you can contact the State Fair Political Practices Commission, the District Attorney, and the Grand Jury, but their track records are not very encouraging.

The proponents frequently picture a rundown slum neighborhood which generates massive problems and little tax, but which is transformed into a revitalized garden of attractive places to live and do business in. That picture is somewhat distorted. In reality there are many variations of both blight and how redevelopment applies. Let's examine some of these



variations with emphasis on three essential factors which are seldom mentioned together, if at all: (1) the tax increment collected by the agency, (2) the money it can borrow, and (3) the private investment.

The tax increment is most unlikely by itself to pay for all the improvements proposed in the plan, or to pay soon enough; Vista's first feasibility study estimated from 37 years and longer, depending on which figures are used. Remember, much of the renovation usually is for non-taxproducers (city hall, library, drainage), and the more blighted an area is, the less tax increment it will produce. The total amount is further reduced by passthrough agreements and the 20 percent for housing.

Most of the agency's capital will be borrowed--with interest. The rule of thumb is that for each dollar of tax increment, the agency can borrow ten more.. Heavily blighted areas, however, produce less tax increment, and consequently the agency will be able to borrow less.

But even the current accumulated tax increment and borrowed money will be insufficient. the agency must subsidize and attract that important third factor, private investment, without which the plan has little chance of success.

"Location, location, location!" Successful business developers have long found that the best location for their activities is near a freeway exit. Why risk your capital in a decaying part of town when a cow pasture next to heavy traffic is available? The answer is, of course, you wouldn't.

This unflattering picture conceivably can be brightened to attract private investment if the economic pressures of adjacent non-blighted areas (traffic, high yield enterprises, high land costs) can spill over to the project area, or the reverse, if the project area is made large enough to extend out to the non-blighted areas.

Garden Grove, California, for example, is the hub of several arterials, and the aging single bathroom homes are being replaced with shopping centers, hotels, and professional buildings. The more of this commercialization, of course, the less desirable the area becomes as a place to live, and the problem of low cost housing is merely transferred to some other areas.

A natural resource like a body of water can be a strong favorable factor. If San Diego tears down enough blocks of the older parts of town, and the stigma of decay is removed, the land then becomes attractive to private developers--if the deals are abundantly sweetened. The result can even be so "successful" that it produces a distressing number of vacancies.

Another boost is if the character of the project area first is completely and totally changed--sanitized rather than partially or progressively transformed.

All these variations are extremely expensive and risky, to state the matter mildly. None of them applies to Vista.

Another variation is an area which frequently is called "blighted," but which more accurately should be called "old" or "behind the times." It is still producing a significant amount of tax, the loss of tax increment to the tax agencies is significant, and the area generates considerable employment. Land costs may be higher than in real slum areas, and the property owners may be reluctant to sell. Note, however, that just being old is insufficient grounds for redevelopment.

Regus v. City of Baldwin Park (1977) 70 CA 3d, 968, and Emmington v. Solano Redevelopment Agency (1987) 195 CA 3d, 491, are two prominent cases which negate the frequent advice of proponents and consultants that redevelopment can be used to improve economic conditions or to upgrade infrastructure--without first establishing real urban blight as defined by the code. Just because many agencies are getting away with the misuse of "economic blight" is no justification for their action.

Cities, like people, get old, and living and shopping methods are constantly changing. The big chains are forever renovating their stores and trying different sales approaches.<sup>17</sup> They are not always successful either, but when the results are poor or are a failure, the chains don't ask the taxpayers to foot the bill--at least directly.

One of the most controversial issues in redevelopment is the definition of "blight." It is spelled out in the redevelopment code, yet the history of redevelopment in California shows many abuses, from the redevelopment of cow pastures in Cerritos to an expansion of Saks Fifth Avenue department store in the heart of affluent Palm Sprints. The definition frequently has to be made in court.

Equally controversial is the definition of "general welfare." Certainly everyone benefits from the elimination of slums, but the code is very weak in its provision for determining where "general" welfare and "private" welfare begin and end. Is the general public benefiting, or are just a few individuals or corporations?

While all these redevelopment project can be very impressive, especially the attractive new buildings, the impression can easily obscure the financial costs, and they can be great and risky. The projects can cover long periods of time, the changes of mismanagement and finagling are enormous, and since projects frequently are amended or combined with previous projects, no one can say with certainty whether the people are betting a benefit--or a boondoggle.

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<sup>17</sup> VONS renovates its stores every ten years according to an 8/16/91 San Diego Union report.

The appearance of success may be accomplished, but whether the amount of public funds spent is justified is another question. When the bookkeeping gets up in the millions and billions, it is difficult to prove whether the benefit exceeds the cost, or vice versa. I'll expand on this subject later.

Agencies are always trying to set up new shopping centers to increase their sales tax income. Again the theory is attractive, but unless there is an increase in population and customers, the total sales tax does not increase. What is accomplished is only a shift in sales, usually at the expense of the older centers (San Diego's Horton Plaza v. Mission Valley, and Escondido's Village Mall v. North County Faire), or of neighboring cities--plus the possible creation of "Edge City."<sup>18</sup> The prospect of a lucrative auto dealership may result in a costly bidding ware between competing agencies (Oceanside v. Vista).

Again, the purpose of redevelopment is to cure blight, not the creation of shopping centers and sales tax, the goal which seems to be uppermost in many proponents' minds. The sales tax is not necessarily a bonanza; we are drinking our own blood.

Not all redevelopment projects create sales tax; low cost housing produces none at all, as well as low property tax, or it may be tax-exempt. Redevelopment raises land values so high that projects with low profit yields must be heavily subsidized by the agency. One of the common results of redevelopment is to postpone or distort the agency's obligation for low cost housing; shopping centers are more profitable. These unused housing funds are piling up,<sup>19</sup> although under a recent "Use it or lose it" provision, they must be spend by December, 1993.

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<sup>18</sup> "Edge City" by Joel Garreau

<sup>19</sup> REDEVELOPMENT AGENCIES' HOUSING PROGRAMS. page 1.

Or, since low cost housing isn't very popular politically, the code might be interpreted to justify using the funds for other purposes. In neighboring Carlsbad the agency was accused of using its housing funds to build a senior citizens center. After a court settlement the agency declared no housing funds would be used for the center. San Marcos and Poway are being challenged similarly.

Public facilities (streets, parks, drainage, undergrounding, perhaps a new city hall and library) also produce neither sales tax nor property tax, and while this fact should not be overlooked in making revenue estimates, the disadvantage is greatly offset by the ease with which the agency can borrow to finance them.

All cities prepare both an operating budget to run the city, and a capital improvements budget for public facilities. They are prioritized and frequently are planned years in advance, although funding must be determined on a year by year basis as funds become available, either from normal revenues, from revenue or similar bonds, and from taxpayer approved general obligation bonds.

A redevelopment agency, by contrast, can consolidate the equivalent of many city capital improvements budgets plus many private improvements budgets, all into one huge redevelopment project. Redevelopment can amount to a super capital improvements program which the city may not be able to afford, or the citizens would not approve if they had the opportunity to vote on the matter.

When a city's capital improvements program is commingled with the agency's plan, no one can judge accurately the ability of the city and the agency to pay and prioritize prudently.

The purpose of redevelopment is to cure blight--not to finance infrastructure.

Proponents openly state that the purpose of redevelopment is to attract more affluent property owners, renters, and customers. Because rents are so much greater than before, the result is both old residents and businesses may be forced to move elsewhere. Redevelopment law requires that 20 percent of the tax increment be used for low and moderate income housing, but the result instead has been to drive out the poor. A 1985 report by the California Debt Advisory Commission says 11,000 housing units for very low income had been destroyed, and only 6,000 built.<sup>20</sup> A recent statement from the State Department of Housing and Community Development, however, reveals that no one has any reliable data on the matter, and whatever figures are submitted by the individual agencies are not checked for reliability.

Since there exists much political opposition to low cost housing, agencies might submit reports which show the 20 percent requirement has been met, but which might be less than truthful.

The Escondido TIMES ADVOCATE editorialized:<sup>21</sup>

Despite a low unemployment rate and a healthy economy, there are more homeless than ever around here. Part of the problem appears to be the redevelopment of downtown San Diego, which has been crowding out the old cheap hotels with new businesses. Since 1976 1,247 units in 30 hotels have been demolished or converted to other uses. Many of the hotels that remain have raised room rents as property values have increased.

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<sup>20</sup> "Urban renewal for business, not housing," CALIFORNIA JOURNAL, June, 1989.

<sup>21</sup> August 24, 1986.

Often low cost housing is low cost in name only. Worse, redevelopment frequently gets rid of the living quarters for the poor and replaces them with subsidized housing for the rich.

Relocation is supposed to be mitigated by relocation payments from the agency to residents and businesses, but who has the wisdom to determine the correct and just amount? Even if a justified amount could be determined, it mitigates only the cost of relocation; the original problems (low rent businesses and residences) which may be moved to new locations, still exist. For the most part, redevelopment merely provides a relocation of problems.

Redevelopment advocates commonly offer a popular wish list: a new city hall, library, schools, improved streets and drainage, shopping center, mobile home park financing--to a wide variety of citizens who still believe in magic. Equally common are claims that these goodies come without cost or that the money for them miraculously and painlessly appears without the burdens imposed by normal financing, like a genie in a fairy tale fulfilling unlimited wishes. The truth is that every project which is accomplished under redevelopment will cost just as much as it will under any other means, very likely more, and the tax increment comes from the taxpayers as do sales taxes, state reimbursements, and federal grants. Every dollar borrowed by the redevelopment agency must be repaid just as it must be repaid by any other agency. The idea that we can get something for nothing is false. Redevelopment is mostly a forced transfer of funds. It is a snake eating its own tail.



More realistic proponents might say revitalization from redevelopment creates new revenue which will pay for everything. It is possible, in theory, for any public agency to realize a profit, but as will be explained later, while the chances for a redevelopment agency to "succeed" might be quite promising in newdevelopment, the chances are much less likely in real blighted areas where costs are extremely high compared to benefits, and much of the costs might be for non-taxproducing project like public buildings or for low taxproducers like low cost housing.

A more accurate conclusion is that revitalization of any really blighted area should be looked upon as a great social responsibility and cost, and that we should not expect some magical and painless process to pay the bill.

The proponents are hypnotized by the property and sales taxes redevelopment can bring, but overlook completely the fact that to produce these taxes in volume, the community must either be urbanized or have a high potential for urbanization. The Garden Grove Agency, for example, can subsidize high rise hotels, office buildings, and huge shopping centers because it is next to freeways and main traffic arterials. There is absolutely no chance of any of these tax producers locating in downtown Vista. Garden Grove is 95 percent built out; the tax producers are moving in and the people are moving out.

Another not so pleasant effect is that the big chains, which won't come in to an area until the population and traffic are great enough to warrant their investment, will most likely drive out the current merchants, or force them to relocate to less desirable areas.

The proponents talk of protecting our semi-rural Vista atmosphere, but what they really are promoting is its destruction. For proof examine the list of contributors to all the measures and candidates for rapid growth--and redevelopment--in the last few years; the contributors are practically all developers. Both issues complement each other.

Naturally, the developers support any financing which will avoid making residential growth pay its own way. redevelopment is the magic formula which combines tax increment, sales tax, and taxes from business and industry rather than developer fees. Many of the proponents have promoted projects which have contributed to the very problems they now want redevelopment to cure. We can better keep our semi-rural atmosphere and encourage a more realistic revitalization without redevelopment.

One of the lures for support is the promise to help coach owners to buy their mobile home parks; again, the agency can borrow without the restraints of voter approval. Not mentioned, however, is the usual priority of the agency for high tax-productive projects, and Vista's mobile home park purchases typically will not be at the top of the list. Also overlooked is the fact that if redevelopment really becomes active the cost of land goes up, and the appraisals for parks in or adjacent to the project area will reflect that increase. Coach owners will then have to pay more for their spaces, or for their rent.

Mobil homes frequently are associated with low cost housing, but not all coach owners are in the low income bracket. A city has a moral and legal obligation to help individuals who need housing assistance, no matter whether they live in single family houses, condos, apartments, or mobile homes. It is wrong to assume that just because someone lives in a mobile home that the agency should use public funds to buy the land for his coach any more than it should for any other type of housing. The criterion should be need.

Mobile home owners, like everyone else if redevelopment is as successful as hoped for, must make a choice between uncertain redevelopment financing for their parks, and very certain increased purchase prices or rents, reduce school and county services, plus increased traffic, crime, air pollution, and the cost of water, energy, and trash collection.

There are better alternatives.

There are at least four categories of proponents:

- (1) Those naive citizens who really believe redevelopment can produce the whole wish list "painlessly."
- (2) Those property owners who expect a better deal from the agency than they can get on the open market.
- (3) Those special interest groups, in general the developers, who expect a "freebie" without concern about the costs to the majority.
- (4) City officials who are trying to provide financing for operating the city and for expanding capital improvement programs without offending the developers or without the necessity of getting voter approval.

CONCLUSION A city council is concerned with a broad scope of public responsibilities, while a redevelopment agency is concerned primarily with real estate development. Within that sphere of action, however, the agency has much more power and authority and ease of action, essentially because it is not hampered by the necessity of voter approval for both borrowing and spending.

Redevelopment is a privileged and expensive way to get and pay for both public and private improvements. It has become a financing device rather than a means to cure blight, and way to avoid adequate developer fees to cover the cost of growth.

Redevelopment is an Aladdin's lamp which needs only to be rubbed, the genie appears, and produces anything your heart desires.



I'll discuss more "wrongs" in following parts.

Part III  
HOW DOES REDEVELOPMENT AFFECT THE SCHOOL  
DISTRICT AND OTHER TAX AGENCIES?

Tax increment financing amounts to a forced contribution without interest from the various tax agencies to the redevelopment agency. Except for the school district, they must either do without that tax money, possibly up to 45 years, replace it with other taxes or funds, or reduce services.

Why don't they object? The answer is, if they're willing to overlook annoying code references to blight, redevelopment offers an alternative means of financing and spending without the restraints of their normal procedures, including Proposition 13, and without making the developers pay the expenses of growth. For a rapidly growing school district like Vista's, redevelopment offered a wonderful alternative to developer fees which the district had always been more than reluctant to collect when it had the opportunity. Now, of course, the legislature has reduced the district's ability to collect adequate fees.

Here's how it works. Most of the tax increment collected by the redevelopment agency comes from the school district because it is the biggest recipient of the property tax, around 50 percent in San Diego County.<sup>22</sup> Because of the Serrano-Priest decision the State Department of Education must try to equalize the result that any taxes lost to the redevelopment agency should thus be "equalized" or "made up" by state funds.

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<sup>22</sup> San Diego County Auditor and Controller, 5/16/89.

State funding for new school buildings is both precarious and late, and for a rapidly growing school district there might be a possibility for it to get a new school sooner under its passthrough agreement with the redevelopment agency than from the State, especially if the agency is engaged in newdevelopment.

Any passthrough benefits, however, until recently should have been reported as income, in which case the state make-up funds would be reduced, but because of inactivity by the State Department of Education and a 1990 ruling by the Attorney General, many districts didn't report this extra-curricular doubledipping. Legislation to solve the 1992 budget crisis resulted in an addition to Education Code 42238 which now excludes reporting redevelopment funds for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance. Redevelopment thus, and to a great extent, is an indirect tap on the State of California treasury.

And who pays the State? the taxpayers of each district are just taking money from one pocket and putting it into another. The education of our children is being sacrificed for the benefit of redevelopment.

Just as significant as the figures is the fact that no one in the Department knows or cares enough to determine the loss. A "normal"? school share of redevelopment agency property tax diverted could reach roughly \$400 million in 1989/90.<sup>23</sup> No wonder the Department is short of funds for new school construction. No wonder the schools are overcrowded.

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<sup>23</sup> REDEVELOPING CALIFORNIA, p. B-33.

The latest figures available from the San Diego County auditor and controller show that in the eight years between fiscal years 1980/81 and 1987/88, school districts contributed \$56.5 million to redevelopment agencies in the county, and the rate is climbing alarmingly, from \$2 million yearly to nearly \$16 million in that short period, or near 800 percent!<sup>24</sup> The figures from San Diego County alone are an indication of what is being lost statewide.

One must temper these figures with the realization that in theory, at least, some of this State loss will be made up by increased sales and income tax from redevelopment activity. No one can determine with certainty, however, what taxes are generated by redevelopment compared to what would have been generated without redevelopment--nor that there would be any increase. Nor is there any guarantee that the possible sales and income taxes will go to schools.

Redevelopment is growth inducing because it obscures the real cost of growth, and school overcrowding is one of its major consequences. By supporting redevelopment, a school district is feeding the tapeworm which is causing its problems.

In Vista the Feasibility Study envisioned the school district getting only \$12 million for a \$20 million Lincoln School--hardly a bargain--with the balance to come, hopefully, from private investors. Nothing was said about finding a comparable site in another location, whether the new site would be as accommodating to its students, or what the busing costs would be.

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<sup>24</sup> San Diego County Auditor and Controller, 5/16/89.

Hardly ever mentioned is the fact that redevelopment causes the time of any tax override, such as a school bond, to be extended or its rate increased, depending on how it is structured, because the tax freeze in the project area decreases the amount of tax to pay off the bonds.

Great fanfare accompanied the presentation of the first passthrough agreement check to the school district, as though the district was getting some "new" redevelopment money. Sadly, the district didn't realize it was merely getting back some of the tax it lost in the first place! Or perhaps it didn't report it as income. Who cares?

The next biggest contributor is the county, around 23 percent. During the same six year period quoted earlier, San Diego County lost \$26 million, after passthroughs, to redevelopment agencies, and at the same escalating rate.<sup>25</sup> The County will not get back any passthrough tax increment from the Vista agency until the fifteenth year, so the loss will be even more significant. No wonder the County wants extra sales taxes for jails and roads.

Why does the Board of Supervisors approve these losses? Again, through passthrough agreements the redevelopment agencies can offer the County in the short term various infrastructure improvements without trying to get voter approval for bonds, and without asking the developers to pay the costs of rapid growth, even though the loss of the tax increment, in the long run, will far exceed the immediate benefits. Some counties have objected.

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<sup>25</sup> San Diego County Auditor and Controller, 5/16/89.

Another reason is that many counties have created redevelopment agencies themselves to collect this "new" source of revenue, essentially from the State Department of Education. It is to the county's advantage to lose as little tax as possible to the city redevelopment agencies, and to exact as much tax as possible from the school districts in the county's own redevelopment agencies.

The host city is the chief recipient of all the goodies offered by the redevelopment agency, and since it is almost always the city council--with different hats--the agency can far more than replace the lost tax increment, about 16 percent,<sup>26</sup> with money borrowed without voter approval, for infrastructure for which the developers should have paid. The result, however, is still a debt which must be paid, and the 16 percent yearly loss (perhaps for 45 years) eventually adds up to a significant amount.

Redevelopment provided Oceanside with a new \$30 million city hall in which the council can struggle with a several million dollar budget deficit.

The loss for a hospital district is usually not very significant because property tax is only a minor source of revenue; most of it comes from user fees and five dollar aspirins. Redevelopment is still a minor handicap for the special districts, about \$3.5 million for 1987/88.<sup>27</sup>

Redevelopment has become a financing device for growth rather than to cure blight, and our school districts are the principal victims.

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<sup>26</sup> San Diego County Auditor and Controller, 5/16/89.

<sup>27</sup> *ibid.*

## PART IV

### REDEVELOPMENT IS WRONG IN PRINCIPLE

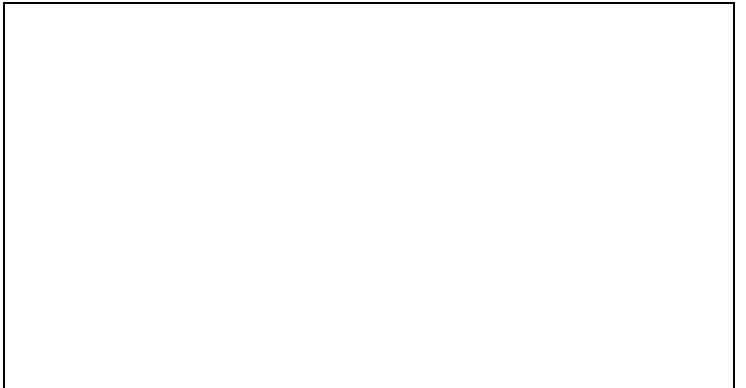
If you would like to see less government rather than more, or if you would like to have more responsible government, certainly for your city to get into the real estate development business is a direct violation of those

principles. Real estate development is a huge gamble. It is wrong to gamble with public funds.

It is foolish to judge redevelopment on the basis of some attractive new buildings. Are they paid for? When will they be paid for? Was the expenditure of public funds justified, and does the great majority benefit, or just a privileged few?

Yes, buildings and neighborhoods deteriorate with time just like people, but it is wrong for property owners to milk as much as possible from their property and then ask the city for a handout for revitalization. You don't expect the city to refurbish your home or your car when they get old, and neither should businesspeople expect a bailout.

Some property owners support redevelopment because they expect a better deal from the agency than they can get on the open market.



But not all of them. Redevelopment proponents like to contrast old rundown business districts with brand new attractive redeveloped shopping centers, but not all old business districts are slums, and in Vista most of them, while they may be "behind the times," have a great deal of useful life remaining. Redevelopment always ends up with greater costs and rents, but many business and property owners are satisfied with what they have. Many businesses could not continue with the higher costs and rents as a result of redevelopment. Every community needs areas where the costs and rents are less than the most expensive.

It is wrong in principle to use government force to compel these property owners to conform to a redevelopment plan, to force economic improvement even if it makes them look better.

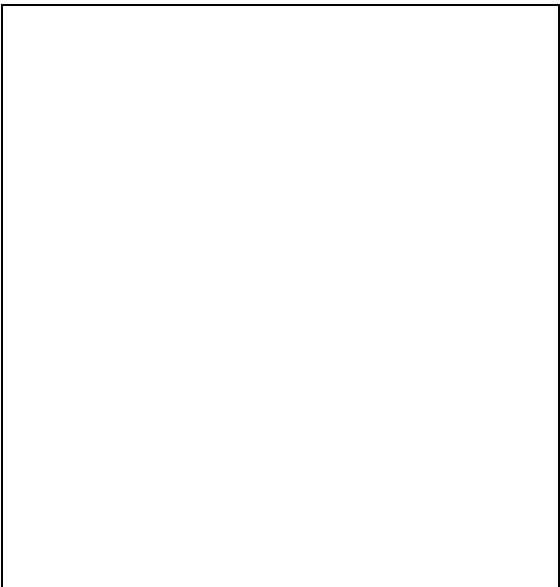
The proponents claim that without redevelopment, blight will increase and the improvements will never take place, that voluntary revitalization won't happen. I have more faith, but if revitalization doesn't happen, it shouldn't be forced under current redevelopment law. The loss of freedom of choice is too great a price to pay. I do not want to be compelled to receive the "benefits" of redevelopment. We should expect such action in a totalitarian state, but not in a democracy. Besides, there are better alternatives.

Revitalization of downtown is certainly desirable; if nothing is done it could become less and less attractive, but when a majority of the property owners want to change that direction, they have the ability to do it themselves in contrast to being forced to by a redevelopment agency with tax money.

Unless there exist specific findings that the general welfare is in danger, it is better to wait for voluntary action, especially when public approval consists only of a public hearing on the redevelopment plan which may have taken place years earlier. Even voter approval, especially a simple majority, when the plan was first approved does not alter this observation; all the really important decisions to implement the plan could not be assessed adequately at that time. The larger the city, the more difficult the definition of "general welfare" becomes.

The proponents are impressed by the "successes" of redevelopment in some cities. The Russians also have impressive subways and public buildings, but my judgment is that it is better to do without these desirable improvements until the property owners and taxpayers understand their cost and are willing to pay, than to allow the agency to accomplish these projects "for our own good." Even the Russians are abandoning this philosophy.

Once the plan is adopted, the agency has tremendous powers to force the development of projects without property owner or voter approval. Even with initial voter approval there is no



guarantee that incentives given later will be justified, that a project can be built at the estimated cost, or that the expected benefits will follow. The voters are still signing a blank check.

It is wrong to get into deep and long term debt without solid assurance of the ability to repay reasonably soon. doing so without an impressive two-thirds vote of the people is even worse. A redevelopment plan does not require voter approval, not even a simple majority. Again it is wrong to sign a blank check, especially for 45 years.

It is wrong in principle to force the transfer of taxes from the various tax agencies to another tax agency. They were given the power to tax in order to meet their particular purposes, and when that tax is taken away, they cannot do their jobs. They must either increase their taxes, if they can, or reduce services. Or, if the loss of that tax money does not impair their ability to perform, they shouldn't collect the tax in the first place. We're fooling ourselves if we expect "something for nothing."

It is wrong to finance the remediation of any social problem on such a narrow and insecure base as provided by redevelopment. The elimination of blight should be the responsibility of the whole community or even a much larger area. Similarly, redevelopment might provide jobs and housing, but these social issues are too complex to be handled by the faulty mechanisms of redevelopment.

Redevelopment funds frequently are used to promote business and industry in the expectation of creating more sales and property tax to offset the drain of residential costs of a "bedroom community" or of public facility costs. A tax should relate to the cost of governmental service provided; it is wrong to make business pay more than its fair share of taxes--or to allow residential development to pay less. But keep in mind as I'll explain following, not all businesses produce a tax surplus.

It is wrong for any tax agency, but especially the school district, to be teaching the approval of "Get what you can whenever and wherever you can." Redevelopment was designed to cure blight, not to build schools.

Proposition 13 limits property taxes a city council can collect, and indirectly, how much it can spend, but as a redevelopment agency a city can avoid 13's restrictions and can collect more taxes and borrow much more money without voter approval. 48 percent of the agencies and 52 percent of the projects have been created in the decade following Proposition 13.<sup>28</sup> This sudden increase was hardly the result of an increase in blight. Proposition 13 certainly has its defects, but to use redevelopment to get around 13 is wrong in principle.

It is wrong in principle to use redevelopment to avoid the restraints of the Gann Initiative. This measure puts a limit on what a city council can spend; the same council sitting as a redevelopment agency is not similarly limited.

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<sup>28</sup> REDEVELOPING CALIFORNIA p. B-11.

Public agencies have a limited power of condemnation and eminent domain to obtain property for the general welfare: land for roads, public buildings, parks, et. Usually this power is limited to perhaps one piece of property at a time. A redevelopment agency can act on a much broader scale; it can condemn whole blocks so a developer can put in private projects such as a shopping mall, hotels, or apartments.

A code limitation of 12 years for the commencement of eminent domain procedure<sup>29</sup> is of little significance because the limitation can be extended. it is wrong to promise to delete these powers when the plan is first being formed in order to get citizen approval because these powers can and will be added later; one holdout can stall a whole project. All the agency's rules and projects can likewise deviate from the original concepts. Or, the agency can change hats and as the council, it can use its more limited power of eminent domain.

Vista's 1986 "educational" Redevelopment Guide didn't even mention these powers; the Citizens Advisory Committee determined the matter was too negative and would cause a loss of votes.

It is wrong in principle to employ the power of condemnation and eminent domain to benefit private property owners under the guise of "general welfare."

"Friendly condemnation" should not be confused with the foregoing because it refers to an almost opposite situation: where some property owners want to sell and get a tax advantage for accommodating the condemnation.

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<sup>29</sup> Health and Safety Code 33333.2(3).

Blight in some inner cities is of such proportions that the legislators reasoned extraordinary measures must be taken to reverse extraordinary situations. They have overreacted; the cure is worse than the disease.

In *Regus v. City of Baldwin Park*<sup>30</sup> the court observed:

"...there is no solid justification for compelling taxpayers in one section of the community...to subsidize the cost of development of another section of the community by carrying a disproportionate share of the cost of local government. Second, unrestricted use of redevelopment powers fosters speculative competition between municipalities in their attempts to attract private enterprise, speculation which they can finance in part with other people's money. When the extraordinary powers of legislation designed to combat blight and renew decayed urban areas are used as a fiscal device to promote industrial, commercial, and business development in a project area that is merely undeveloped rather than blighted, competitive speculation may be turned loose.

It is wrong in principle to give any governmental agency such tremendous powers to enhance private property, particularly when there exist better and fairer methods of improving the situation. Redevelopment demonstrates the injustice of a majority paying for the benefit of a few.

It is wrong to enable selected property owners to benefit from redevelopment; the benefit should go to the whole community.

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<sup>30</sup> 70 Cal App. 3d 982 (1977).

Proponents frequently justify redevelopment because by tearing down the cheap hotels, bars, and old movie houses, they also get rid of the prostitutes, drunks, and other types of social problems. The same results can be accomplished by normal city government action, without redevelopment. Neither method, however, can be rated successful if the problems are merely moved elsewhere. Under redevelopment the chances for excessive cost are infinitely greater because of the lack of oversight and public participation.

It is wrong to think or claim we are solving problems when in fact we are only transplanting them elsewhere.

"You gotta spend money to make money."

That statement is frequently true, but its implementation should be left to private enterprise. It is wrong to put public funds to such risks.

The proponents describe redevelopment as "cooperation" between government and private enterprise, a "partnership." A more accurate phrase is, "Redevelopment means a government agency with tremendous power which can say, 'You must,' and carry out the order with tax money." Or, too often these pleasant words describe lemon socialism, where private enterprise gets the cherries and government gets the lemons.

Just as bad, this relationship becomes an unfair advantage to those "partners" who "cooperate," to the disadvantage of those not included. The larger the corporation the agency cooperates with, the greater the chances for the corporation to dominate. It is wrong to subsidize one business to harm another or put it out of business.

It is wrong to compel businesses which have invested heavily to improve their property, to compete with areas which have been subsidized with redevelopment--public--funds.

Similarly, it is unjust to enable those cities with redevelopment agencies to collect the tax increment, to a large degree from the State treasury, when those cities without agencies, don't collect.

"Cooperation/partnership" is essentially a form of public subsidy, a subject too complex to discuss in detail here. Briefly, all governments should be very wary of any subsidies, and to employ them only if they benefit the great majority, and that great majority understands and approves the cost. Even then it is difficult, if not impossible, to determine what is a reasonable subsidy. Our founding fathers wisely prohibited tariffs between the states, an early form of subsidy, and it is just as unwise for cities to lure tax-producers to the detriment of adjacent cities, or for one city to "help" one of its areas to the disadvantage of another area.

To apply the principle locally, it is wrong for San Marcos to subsidize the Price Club to locate there, or for Carlsbad to subsidize the Camino Real shopping center. It is especially unprincipled for the Vista agency to engage in subsidy bidding against the Oceanside agency for a high tax producing Ford dealership--"raising the ante" with public funds. I'll provide a better alternative in Part IX: the return of sales tax on a per capita basis.

Almost 150 years ago Alexis de Tocqueville wrote the danger of democracy was that each segment might vote benefits for itself to the harm of the rest. It is wrong also for proponents to entice various groups to vote for redevelopment because each will get a special benefit, a "freebie": seniors, juniors, businessmen, firemen, mobile home owners, the school district, and others--at the expense of the great majority.

A redevelopment agency begins under the democratic processes of public hearings and ordinances, but once the plan is adopted, democracy takes a back seat. There exists practically no oversight, and with the agency's tremendous power to borrow and spend, the will of the people can virtually be ignored. "Shut up, get out of here, and give us money!"<sup>31</sup> This philosophy of letting public officials make all the important decisions in order to "get things going," unfortunately has considerable support.

It is true that voters can be ignorant and uninformed, but as Winston Churchill put it, "Democracy is the worst form of government, except for all the others." Powerful officials and agencies, both public and private, with their great resources can make equally bad decisions. It is better to stumble and blunder, however, both backwards and forwards, according to the whims of the voters than to be forced by a benign dictatorship--or a too powerful government agency.

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<sup>31</sup> Bernard de Voto and Selma von Haden.

It is wrong to give a public agency, especially one composed of five ordinary people, so much power to borrow and spend without oversight for excessive lengths of time and without the specific and solid approval of the taxpayers who must pay the bill.

It is wrong for any governmental agency to spend unlimited tax money for litigation against oversight challenges. It as been reported that the City of Vista and/or its redevelopment agency spent between \$113,000 and several times that amount against my validation suit. How can a citizen or a group of citizens match such a formidable power?

Redevelopment is wrong in principle and therefore should not be employed--even if it brings in the money. But it doesn't necessarily bring in the money either. Read on.

#### PART V FINANCIAL SHORTCOMINGS

Maybe you aren't concerned with principles. I am frequently presented with the argument, "We certainly have the problems; don't be so concerned where the money comes from. Wouldn't you like a new city hall? An attractive shopping center? Aren't you for progress?" The expectation is created that redevelopment will pay for an attractive wish list of wonderful improvements--without cost and without the pain of normal financing.

But redevelopment doesn't necessarily work out financially either. Remember, we're discussing financing redevelopment of real blight-- not newdevelopment, which will be analyzed in part VI.

Before your community starts out on its good news path it will undoubtedly buy a feasibility study. There are lots of firms which can produce their standard material on short order,

plug in some impressive local figures, and come to the very original conclusion that your community is ripe for redevelopment.

Vista bought two of them. The first was so full of errors, omissions, and questionable assumptions, the City should have refused to pay for it. Even the proponents finally disavowed it. In essence, the estimated income was too high and the costs too low (no design, engineering, and administrative costs, for example), a 45 year projection showed income in future dollars but costs in 1984 dollars, and a so-called "typographical error" of \$1.25 million which required 45 subsequent "corrections."

The second study was much more cleverly done. Instead of providing too many specifics which could be challenged, it was much more general. It made everyone feel he would have top priority, and the various problems faded into a haze of euphoria.

A feasibility study looks to the future and is made up of educated guesses before the agency is established. Both of Vista's studies showed geometric tax increases for the next 45 and 40 years respectively. In reality, however, there may be tremendous variations, caused by no activity, demolition of property, economic slowdowns (booms and busts), and poor judgments, or the opposite, caused by great activity and profitable subsidies. Or the study may even be so "conservative" that its estimates of tax increases are too low. In Vista both studies estimated less tax than what was collected from "normal" taxation in the first two years without any physical redevelopment at all.

The ironic facts are that the so-called "blighted" older areas C and D produced an assessed value increase of 42 percent between 88/89 and 90/91.<sup>32</sup> At the same time vacant Area B and mostly vacant Area A increase 176 percent.<sup>33</sup>

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<sup>32</sup> \$167,409,630 to \$238,377,972; City of Vista Finance Dept.

<sup>33</sup> \$69,768,973 to \$122,513,995; City of Vista Finance Dept.

Don't confuse the collection of some tax increment with "success." A review of redevelopment agencies shows that "success" does not take place nearly as soon as the proponents envision. The time between the formation of an agency and the start of its first tax-producing project is usually a matter of years, and frequently many years, as is also the time to complete projects. By "tax producing" I mean taxes as a result of redevelopment activities, not just normal tax increases. Start-up costs alone for salaries, consultants, legal fees, etc. can be quite a shock.

The arrival of "success" may well be delayed by tearing down structures which had been producing taxes. the experience of many agencies has been that these cleared parcels stay vacant for years before they are again built on--"black holes" in the business community (Oceanside).

It is also naive to assume that all business and industry produce a surplus of tax over governmental costs, and that all are financial blessings. A business which pays mostly minimum wages and creates much environmental damage certainly is not a community bargain, nor is a highrise which overloads, for example, sewer, water, and fire protection services, and creates costly traffic problems. Some industries require an inordinate amount of water and thereby increase the cost to everyone. Is that shopping mall a tax shelter or a genuine big tax producer? When sales are slow, will it apply for a reassessment as is currently happening in our assessor's office?

Don't rely too much on feasibility studies.

After the agency is formed, however, it should be able at all times to produce data showing its financial health and how its project are proceeding. For example, how much money or value has it received: tax increment, bonds, gifts, grants, sales tax, value of city staff time, office space and equipment? Frequently the host city gives free or low interest loans, and loans without repayment schedules or guarantees of repayment. (These arrangements are cozy for the agency, but can be a little rough on the city.) What value has the agency created?

These data are difficult to get because projects are frequently amended or added to, both physical (add another block) and financially (one part pays for another), or the passthrough and other deals vary, and some are tax-producing and others aren't. Or, if information is given, the most favorable data can be selected and the less favorable overlooked. Bookkeeping with figures in the millions can get so complicated and innovative even the proponents of redevelopment can't comprehend them. One agency told me it was hiring a consultant to get the answers.

One of the most significant evaluations is to determine how much the agency is in debt and when it will be out of debt. Most of California's redevelopment agencies are deep in hock (bonds and loans), and their "successes" will be paid for by the present citizens' grandchildren, and then be ready for redevelopment again. Dominelli was successful too on borrowed money--for a while.

Following are some agency debt figures for the fiscal year 1989/90 according to the California Controller:<sup>34</sup>

Los Angeles (Central Business District and Bunker Hill)	\$597,313,000
City of Industry	503,715,905
San Jose	470,980,000
Oakland	300,619,273
San Francisco	251,212,756
Anaheim	198,299,714
Fontana	196,629,283
Long Beach	153,993,641
Santa Ana	148,482,902
Brea	138,790,000
Santa Clara	134,048,951
Rancho Cucamonga	116,337,620
Pico Rivera	109,393,737
Irwindale	105,845,000
Poway	104,713,165

In the five year period from fiscal years 1982/83 through 1987/88, the outstanding long-term debt of redevelopment agencies grew from \$2.6 billion to \$7.9 billion, an annual growth rate of 25 percent.<sup>35</sup>

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<sup>34</sup> Letter, September 3, 1991. Since the figures are by project areas, the figures for some agencies with several project areas may be even higher than shown.

<sup>35</sup> REDEVELOPING CALIFORNIA, page A-4.

When will an agency be out of debt? If its emphasis is on bringing in sales tax (a strategically located shopping center), an agency could theoretically be debt free in a few years, but if it tackles real blight, it might never get out of debt. There are no state figures on debt lengths.

In Vista's first feasibility study the charts showed, depending on which figures you chose, if only tax increment were used, our agency would not be out of debt for at least 37 or 40 years, or many more years.

Many "successes" were accomplished with large amounts of federal funds and a resulting increase in the federal deficit--itself a wonderful example of economic growth by going into debt.

An agency cannot collect any tax increment unless it can show a debt. Many agencies have abused this requirement by including questionable debts in order to collect more tax increment. Or, the agency can increase its tax increment by purchasing a site and then reselling it to get a new and higher assessment even though no improvements were made.<sup>36</sup>

A city can use general obligation bonds back by the city's assets and ability to tax, if approved by two-thirds of the voters. A redevelopment agency, however, normally uses tax exempt tax increment bonds (tax allocation bonds) which do not require voter approval, but which demand higher interest rates. Redevelopment projects therefore can cost more than projects financed by general obligation bonds.

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<sup>36</sup> REDEVELOPING CALIFORNIA, page A-78.

We're fooling ourselves if we think tax exempt bonds are a bargain to the government agency. Every tax dollar which these bonds avoid must be made up either by additional taxes elsewhere, or a reduction of services. Only the affluent who buy them, benefit.

The latest financial wrinkle is for a city council and its own redevelopment agency to form a joint powers agency. The two agencies by "marrying each other" and thus creating a third agency, a "JPA", with its greater taxing ability might get better interest rates and cheaper bond costs than either the council or the agency could get by themselves for bonds not approved by the voters. Because the city is a co-signer and therefore financially responsible, the JPA can more readily lend and borrow money to and from its creators (itself) than could be accomplished separately. This cozy financial incest has not been tested in the courts. Another variation is for the agency to borrow the money for say, a new city hall, with a long term lease by the city as security.

With all this innovative financing available there is little incentive for cities to employ general obligation bonds. They require a two-thirds majority of the voters, but bonds with payment assured by the property taxes, now called "tax increment", or a long term lease, can avoid this unpleasant and inconvenient step. Again, redevelopment is a means to circumvent Proposition 13. Redevelopment enables a city to finance massive public improvements without getting voter approval.

Flash! The legislature, in order to balance the budget (October, 1992), has just made a significant reduction in each agency's tax increment, and I see no reason why the same or a greater reduction won't be repeated next year. Bond payments and rates certainly will be affected adversely.

The proponents say no agencies have failed or gone bankrupt. That statement is very misleading. After Proposition 13 many agencies were bailed out with state aid, and some were terminated by citizen action in the face of an unfavorable future. When an agency is terminated, the city must assume any remaining indebtedness.<sup>37</sup> With agency lives of 45 to 50 years and long term bonds and refinancing, it is too early to preclude failures, especially when grandiose new development is included.

California has 319 active agencies and 45 inactive agencies.<sup>38</sup> Apparently none of them has voluntarily gone out of business, but a 1984 survey identified only 17 completed projects where the planned activities were finished, there was no further indebtedness, and the agency was no longer receiving property tax increment.<sup>39</sup> One reason is that bond terms may be for 30 years after the projects get started, and they're always being amended. Once created, any governmental agency tends to grow and expand, with logical reasons for perpetuating itself.



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<sup>37</sup> Health and Safety Code 33141.  
<sup>38</sup> State Controller, letter, September 3, 1991.  
<sup>39</sup> REDEVELOPING CALIFORNIA, page B-12.

Redevelopment is a significant and rapidly growing financial drain not only at the city level, but also at the county and state levels. Following are some figures which were determined by various accounting systems, and which therefore may not be totally compatible, but which are valid enough to cause great concern.

In the eight years through fiscal years 1980/81 and 1987/88 a total of \$113 million was diverted from San Diego County school districts, the County, the cities, and the special districts, to the several redevelopment agencies. The yearly amount rose from \$4.43 million to \$31.58 million, a growth of 713 percent (7 times).<sup>40</sup> The latest update shows the diversion in 1990/91 rose to almost \$66 million, or approximately 5 percent of the total property tax.<sup>41</sup> If these figures were on disease, we would call the situation an epidemic.

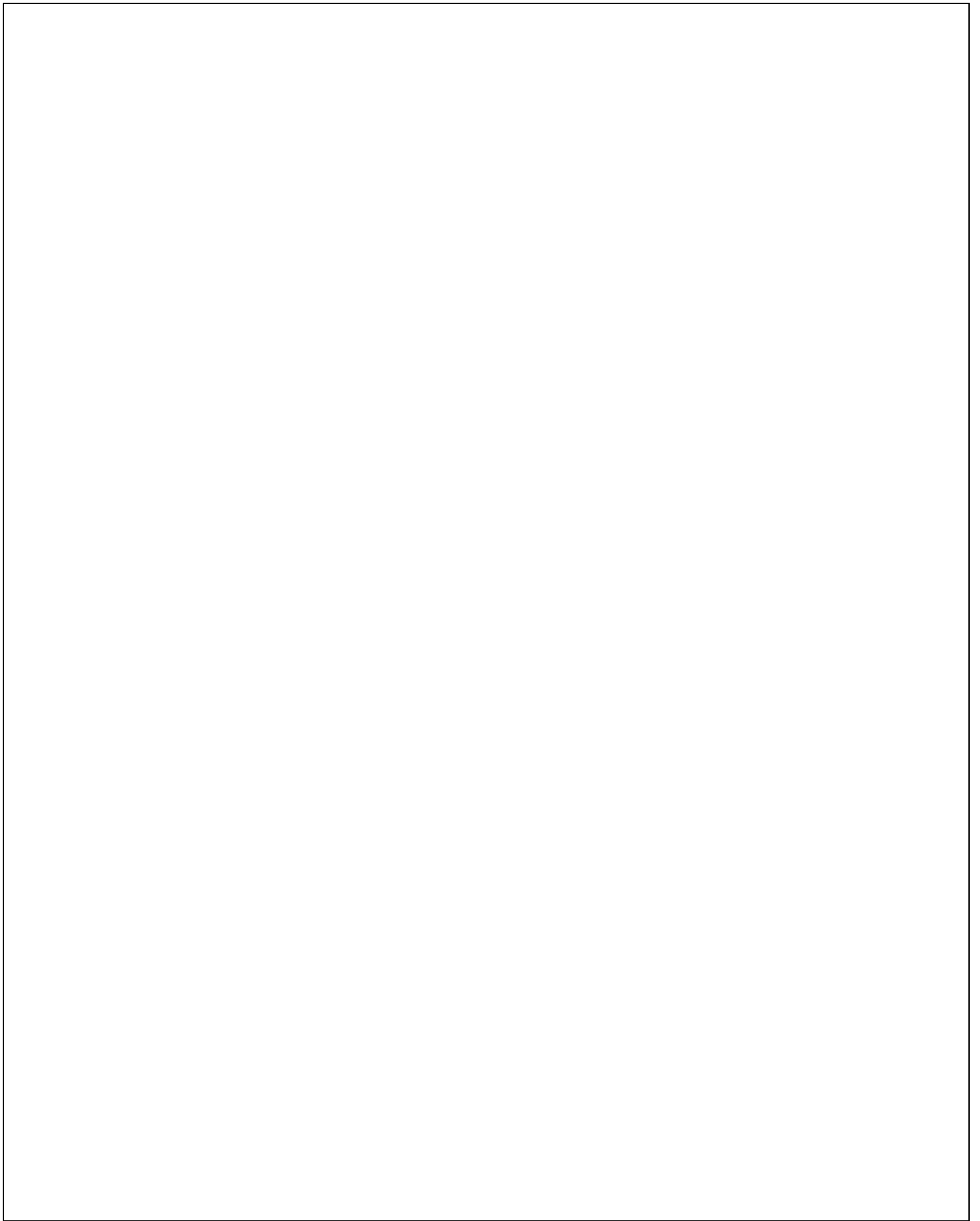


If you're upset over the county's budget problems, you might consider what could be done with that \$66 million, and what the amount will be next year.

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<sup>40</sup> San Diego County Auditor and Controller; letter, May 16, 1989.

<sup>41</sup> San Diego County Auditor and Controller; letter, Sept. 27, 1991.



The diversion in Los Angeles County was \$178.3 million in 1988/89, an increase of over 440 percent since 1978/79.<sup>42</sup>

Four counties lost between 13.05 and 11.16 percent of their tax base to redevelopment 1987/88.<sup>43</sup>

The frontrunner by far, however, was Riverside County where between 1980/81 through 1989/90 the diversion grew by 1406 percent (14 times). In 1988/89 redevelopment received 11.44 percent of the total taxes collected, nearly \$61 million,<sup>44</sup> and in 1990/91 the diversion was 14 percent, or \$102.23 million.<sup>45</sup>

Statewide, the diversion rate was not as spectacular, but still was significant. Between 1982/83 through 1987/88 it grew from \$24 million to \$807 million, a growth of 249 percent,<sup>46</sup> with probably \$400 million of that figure diverted from schools.<sup>47</sup> The updated figure for 1989/90 is just short of \$1 billion,<sup>48</sup> and for 1990/91, \$1.2 billion.<sup>49</sup>

At the same time the cities and the counties were losing these taxes, they were also gaining possible sales taxes from the project areas, but currently there is no conclusive method of determining what sales tax came from redevelopment and what would have come without redevelopment. Sometimes cities lose sales tax because of demolition or poor judgments. The State, in addition collected sales and income tax, and the Federal Government, income tax, but again, there is no accurate means to determine what was created by redevelopment.

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<sup>42</sup> REDEVELOPING CALIFORNIA, page A-51.

<sup>43</sup> REDEVELOPING CALIFORNIA, page B-15.

<sup>44</sup> REDEVELOPING CALIFORNIA, page A-37.

<sup>45</sup> Riverside County Finance Department, September, 1991.

<sup>46</sup> REDEVELOPING CALIFORNIA, page A-4.

<sup>47</sup> REDEVELOPING CALIFORNIA, page A-4 and page B-33.

<sup>48</sup> California Controller's Office, Sept., 1991, \$999,429,235.

<sup>49</sup> Letter, Senator Craven, September 3, 1992.

Many proponents have based their opinion of redevelopment on the elimination of old buildings and the presence of attractive new ones, but without much consideration of the cost. It is foolish, however, to talk of "success" until there is a reasonable assurance that the tax increment and other revenues will be sufficient to pay off all the debts and the agency can go out of business.

The most effective is a financial cost/benefit statement-- not just a revenue/expenditure audit. What funds and value have gone into redevelopment, and what have they accomplished? The most accurate answer would be available when the

projects are all finished and the project areas are returned to the tax rolls, the debts paid, and the agency is dissolved. For most agencies that date is so far in the future, only our grandchildren will be able to expect the answer. Nevertheless, even though the data are difficult to get and may involve many estimates, it is prudent to make evaluations from time to time rather than blindly to assume redevelopment is all benefit and without warts. A cost/benefit statement is valuable even for project areas which are not really blighted, although the results would be skewed.

Asking agency directors for data is like pulling numbers out of a lottery barrel. About the only state data are from the Annual Statements of Indebtedness and the Annual Reports to the Department of Housing and Community Development, but no oversight exists to ensure their uniformity and accuracy. Yes, you can founder in a sea of statistics from the ANNUAL REPORT by the state controller. It will tell you the number of square footage added to each project area in the state, which agencies didn't respond, and even a lot of important data, but it will not provide anyone with the answer to whether any project is a boon or a boondoggle.

Following is a skeleton FINANCIAL COST/BENEFIT STATEMENT. Financial costs are relatively easy to determine, especially the tax increment, the loans and bonds which have been paid or must still be paid, and any gifts and grants.

One item may be a surprise, the (Uncollected) Interest on tax increment, but it is fully justified. If the school district and other tax agencies had not lost that tax money--actually forced loans--they could have collected interest on that amount; that loss costs the community. Even if the State reimburses the school district, the State suffers the loss, and we're part of the State.

Benefits are much more subject to individual judgment than costs and are much more difficult to determine because currently there is no way to state precisely what benefit came as a result of redevelopment, and what the result might have been without it.

Reserves is the amount of revenue which the agency has not yet spent and has on hand.

In addition to the total financial benefit the agency may have some uncompleted projects, and while they can be considered "Potential Benefits", they should not be included until they are established benefits; that happy day may not even occur.

Increased property tax can be a potential benefit, when the agency goes out of business and returns the project area to the tax rolls, but unless that event is close at hand, the property may instead be ready for more redevelopment before that date occurs. Parcel by parcel tax figures are available in the county assessor's office, not only for the time since the tax freeze was instituted, but for the years preceding, so objective estimates on how effective redevelopment has been are readily available.

A list of questions provides further information which can provide an overall general picture of the benefits.

Redevelopment agencies frequently release statements showing a favorable ratio of agency investment to private investment which can be quite inaccurate or misleading. Be sure that "agency investment" includes the total costs as described above, not just some selected costs, and that the private investment figures square with the assessor's records. Was the project to cure blight, or was it newdevelopment?

Caution! The proponents may say the goal is "social rather than economic," a pleasant phrase which proves the justification for just about any redevelopment project at any price. Yes, social goals are of prime importance, but if they are accomplished without the financial concerns just described and without the restraints of the democratic process, they can lead to some disastrous results.

There is no way that social benefits can be weighed precisely, and certainly not the value of beauty. The amount of any society devotes to these elements and when they are to be accomplished should be a reflection of that society, not of the decisions imposed on the people by a five person board or by developers. History is replete with the actions of great--and sometimes mad-- kings and church leaders who emptied their treasuries and the pockets of the citizens to build pyramids, cathedrals, castles, and other monumental edifices.

History does not have to be repeated. There are tools to prevent the development of blight in the first place, and better alternatives than redevelopment to eliminate blight after it has developed.

# FINANCIAL COST/BENEFIT STATEMENT

<u>Cost to date</u>	<u>Benefit to date</u>
Tax increment _____	Sales tax from project
Less _____	area since redmt. _____
passthroughs(_____) _____	
Net increase _____	
Loans _____	Value, low cost housing _____
Bonds _____	
Grants _____	Value, new
Interest income _____	public facilities:
	library,
	parks,
	streets, etc. _____
Rent _____	Value, improved
	public facilities _____
Gifts, unpaid city	
subsidies _____	Other _____
Uncharged value:	
city staff time,	
office space,	
equipment _____	
Uncharged costs, projects	
inside project area which	
add to city costs _____	Total <u>Benefit to date</u>
	_____
Uncharged costs,	
infrastructure	
outside project area _____	Reserves _____
Other _____	
Total <u>Cost to date</u> _____	

The purpose of this statement is to show on the Cost side all the funds and equivalent funds which the agency has taken in to date, and on the other side all the Benefit(s) the agency has accomplished with those funds to date to cure blight. The Cost side shows the original principals of all loans or bonds, and not the payment or balances due.

When a bond is refinanced, list only an increase in principal, if there is one; without one the new bond reflects only the unpaid balance. I have added to the Cost side the "Earned interest" and "Rent" income because any funds which increase the agency's capital should be included. The value of city staff time etc. should be included only if they have not been paid for, which amount is the equivalent of a financial gift. Uncharged costs for projects inside the project area which clearly add to an unpaid increase in cost to the city of fire and police protection and water consumption, for example, should be listed on the Cost side as gifts. The unpaid possibly prorated cost of infrastructure outside the project area which is necessary for the completion of a redevelopment project, a traffic interchange for example, also should be listed as a gift.

Subsidies to developers require special examination because they can be very complicated. Both the agency and the city can give subsidies, but the city can give them only if it can demonstrate the subsidies are for the general welfare—and can withstand a challenging lawsuit. The agency, in contract, is encouraged to give subsidies—without the general welfare restriction.

If the subsidy comes from current agency funds (tax increment, bonds, etc.), it is already listed on the Cost side. If the subsidy comes from additional loans or bonds, the loans or bonds should be listed.

A common agreement with developers is for the agency or the city to pay for improvements, such as streets, before or after the project is completed. Not all subsidies, however, stay with the developers; sometimes the developers pay for the improvements with reduced payments or balances as the projects' sales tax is generated. Do not list the payments to the agency, but any loss should be listed as a gift, or as a loan, if repaid.

A reduction of property tax to the agency, the tax increment, also should not be listed separately from the total amount of tax increment. A reduction of the frozen property tax to the city, however, is the equivalent of a gift, and should be listed, plus interest.

If the subsidy is too large for the agency to pay with current funds, an agreement for subsidies from future bonds or tax increment should be included on the Cost side, and the amounts for these sources in future COST/BENEFIT STATEMENTS should reflect whatever already has been listed.

I am omitting "(Uncollected) Interest on tax increment at bond interest rate" because while in another context it is fully justified, in this revised statement I am listing only the funds which have come in or the equivalents, not the funds going out or the equivalents.

On the Benefit side list only the sales tax from the project area and not from the whole city. Note that the property tax will not be available until the agency is dissolved and no longer collects the tax increment. Do not list setaside funds for low cost housing as Benefits until it has actually been built. Watch for the inclusion of Benefits outside the project area, generally public works. The determination might be made that they are for the benefit of the whole city, but they cannot be included unless the agency can demonstrate the Benefits are necessary for the elimination of blight in the project area.

The funds spent by the agency for new and improved public facilities should be listed as their "Value." I have listed "Reserves" separately because while they can be considered as future benefits, they might also be just expense.

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Legislation adopted after REDEVELOPMENT/BOON OR BOONDOGGLE? was first published resulted in some minor changes, but no major ones.

## SOME REVEALING QUESTIONS

When was the Plan adopted?

How much is the agency in debt (bonds, loans; see above)?

When will it be out of debt from the tax increment alone?

When will it be out of debt from tax increment plus other revenues?

When will the current projects be finished?

What is the increase, number of firms coming in/leaving?

What is the value of their investments?

What is the ratio of agency cost/value private investments?

How much of the agency cost has gone into incentives?

How much of the agency cost has gone into administration?

How much of the agency cost has gone into litigation?

Has the agency submitted annually to the city (or county) a proposed budget of its administrative costs as required by Health and Safety Code 333611?

Were the projects really redevelopment, or just normal capital improvements?

Did traffic circulation improve?

Has the project created additional demands for infrastructure outside the project area?

What wage scales were created; mostly minimum wage?

How much has the amount of low cost housing increased?

Has the 20 percent requirement been met?

Did crime and other social problems decrease, or just move elsewhere?

Is the project area more beautiful?

PART VI  
NEWDEVELOPMENT

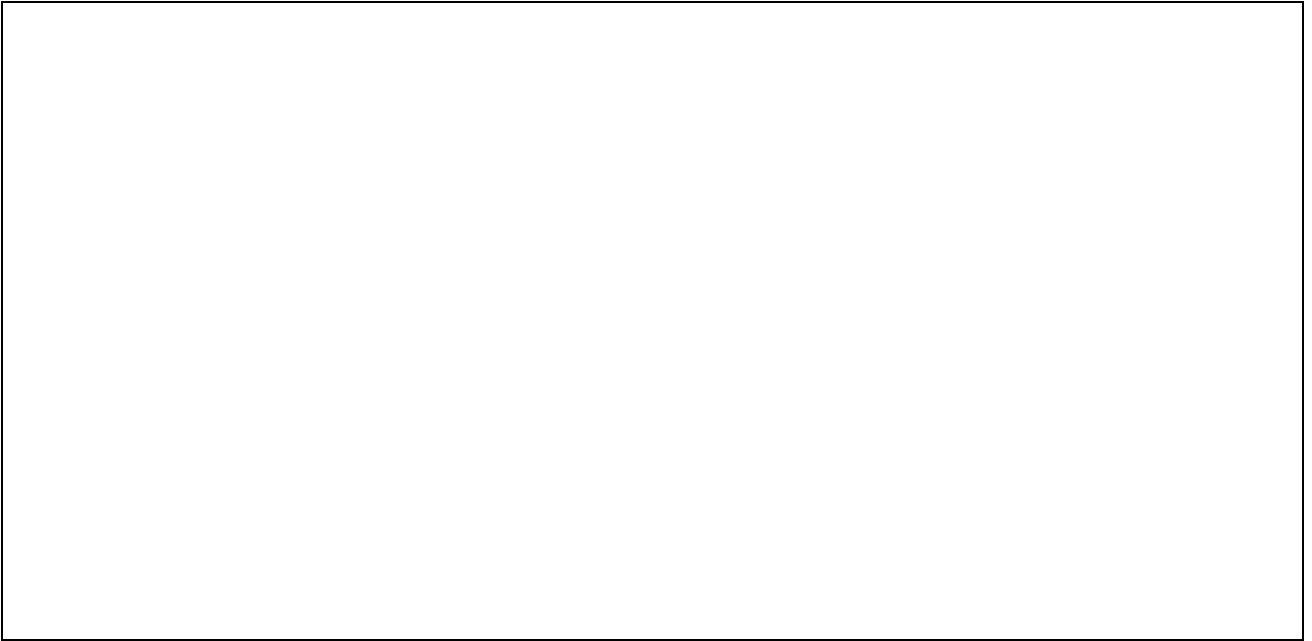
This part, although it is shortest, may be one of the most important. So far we've been examining redevelopment as defined in the code, a means to cure urban blight in areas with rundown, unsafe buildings, areas prone to disease and crime, and incapable of improvement by private enterprise acting alone.

Redevelopment has enormous problems where real blight exists, but city councils, especially in rapidly growing areas, have learned that redevelopment is a remarkable device to finance the problems caused by rapid growth--without making growth pay its way or without having to get voter approval for either massive spending or borrowing.

Even in areas where rapid growth is not a factor, this perversion of redevelopment can enable a city council to finance a capital improvements program or a subsidy to lure new industry, for example, which the council couldn't pay for under normal financing.

The result has been that while agencies may have some legitimate blight to cure, the motivation to remove it is easily eroded to include the financing of projects without any aspects of blight. The mixture might well range from a preponderance of blight to none at all; neighboring San Marcos has openly boasted its projects have been entirely for infrastructure needed because of rapid growth. Its subsidy to the Price Club to locate on an unblighted freeway exit is the perfect example of this newdevelopment, and of what redevelopment was not designed for.

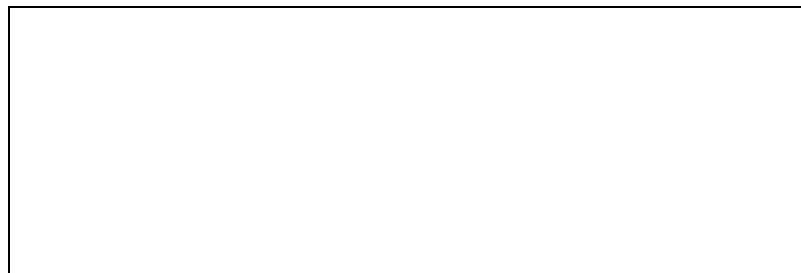
In such newdevelopment, the taxes very likely just roll in (both property and sales), borrowing is easy, and the developers are eager to invest. There might well be money for those new public facilities, a new city hall and even financing for mobile home park purchases. As long as the agency is so successful financially, the taxpayers generally don't bother to examine the goose that lays the golden eggs, but the result is not redevelopment.



So far the good news. Creating this special agency with these tremendous powers to borrow and spend means that the safeguards which normally apply to city councils and county boards are put aside, and all the blemishes described previously can apply also to newdevelopment. Prudent and just solutions to both blight and nonblight problems are then more likely to be postponed. the redevelopment law was created to cure blight, but the ease with which the law can be subverted means that newdevelopment becomes the goal and the elimination of real blight is hindered.

Part VII  
ANSWERS TO THE USUAL ARGUMENTS

This part attempts to answer the most common arguments which are presented to justify redevelopment.



"WITHOUT COST TO THE TAXPAYERS"

One of the most common claims is that redevelopment will produce all these wonderful projects "without cost to the taxpayers." That statement is totally false. Every redevelopment dollar collected--captured--from the various tax agencies (school district, county, city) comes from the taxpayers.

In order for all these tax agencies to provide the same level of service they maintained before redevelopment, they must collect taxes to make up these losses, possibly for up to 45 years. The alternative is to reduce services. That captured tax money can't go both ways. It can't be in two places at the same time. We're still robbing Peter to pay Paul.

"NO TAX INCREASE"

Again false. The whole financial base for redevelopment comes from the tax increment of the project area. "Increment" means "increase", and comes from the increase when there is a change of ownership, the increase from improvements and new construction, and the yearly two percent increase, all under provisions of Proposition 13.

As has just been explained, taxpayers outside the project area, in order to receive the same level of service, must therefore pay increase taxes.

Another increase comes from the impact of redevelopment on tax overrides (bonds for schools, city halls, parks). The frozen assessed value of the project area means less revenue to pay the bonds, and depending on how they are structured, the tax rate must be increased or the payments extended over a longer period of time.

"STAYS IN VISTA"

The proponents claim that the tax money which normally would go to the county and the other tax collectors "stays in Vista".

Misleading, to put it mildly. Yes, that tax money stays in Vista, but at the same time Vista taxpayers, in order to receive the same level of service from the county and the other tax collectors, must pay and reimburse them the same amount the agency gained. We're taking money out of one pocket and putting it into another. The transfer is no financial benefit.

"SUBSIDY"

They say that cities which do not have redevelopment agencies are subsidizing those cities which do.

A more accurate statement is, "Cities which don't have redevelopment agencies must accept reduced county and state services (courts, jails, roads, health service, schools) because of the tax money lost to the cities which do have redevelopment."

The charge is like saying, "Everyone is doing it, so we should too," but two wrongs don't make a right, and neither does adding a few more. Some counties are suing over this lost revenue, and a few school officials are beginning to be concerned. Legislation is needed to correct this injustice.

#### "TEMPORARY-INSIGNIFICANT"

Proponents sometimes claim the loss of tax increment by the various tax agencies is only temporary and/or insignificant, and will be more than made up from increase property and sales tax from the revitalized and adjacent areas. In addition the redevelopment agency can provide a new city hall, a new library, etc., etc.--all free for just a little inconvenience.

The truth is, however, the loss is seldom "temporary" except perhaps where real blight did not exist in the first place (successful shopping center in a pasture). Areas may be torn down and stay vacant for long periods of time, thereby providing only expense and no income. Redevelopment agencies seldom go out of business, and the drain on the contributing tax agencies might well last for 45 years.

Most redevelopment "blight" is not insignificant in producing taxes. In Vista the "blighted" downtown Areas C and D increased in assessed valued 42 percent the first two years without any physical redevelopment activity. Likewise, "blighted" Areas A and B increased 176 percent.<sup>50</sup>

#### "CAN'T AFFORD"

One of the most common claims is that "since the property owners and the City can't afford these improvements, redevelopment is the tool which can pay for them."

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<sup>50</sup> 88/89-90-91; City of Vista Finance Dept.

Pure MAGIC. If the owners and the City can't afford them, the agency can't either. The claim should be instead that "if the property owners and the City can't borrow the money, the redevelopment agency most likely can."

Redevelopment is essentially a financing method. If the project is for revitalizing a slum tenement for example, although the agency very likely will be able to borrow the money, it will have exactly the same problems for repayment as the owners or the City would. If the project is for a new shopping center in an attractive location, however, all three: the property owners, the City, and the agency would have a relatively easy job of financing it. Two obstacles for the City, of course, are that it would first have to get a two-thirds voter approval for general obligation bonds, and it cannot use public funds to improve private property.

The problem is not one of affordability but of ability to borrow.

The proponents also are assuming that the tax increment and sales tax producers in the project area will pay for the non-producers or low-producers. Again, a real slum won't produce the necessary amount of tax increment, and the likelihood of big sales tax producer locating there are minimal unless a huge subsidy is provided. The question then is one of cost/benefit. Is a million dollar subsidy justified to create a half million dollar increase in taxes?

If your city treasury is blighted, redevelopment won't replenish it.

"WE NEED THE IMPROVEMENTS"

"Don't be so concerned how the money is obtained; we need the street improvements, drainage, library..."

Redevelopment gives the agency tremendous powers to cure a tremendous problem: blight. It was not designed to pay for improving new infrastructure, and especially to pay for the cost of rapid growth. If a proponent is not concerned how the money is raised, robbing a bank is a possible alternative.

There are better solutions for paying the cost of curing both blight and inadequate infrastructure.

"STIMULATE THE ECONOMY"

The claim is made that the redevelopment of downtown and the rest of the Project Area will so stimulate the economy that increased property and sales taxes will pay for the wish list.

Fine theory, but in reality the results are likely to be quite opposite. The more blighted a project area is, the less tax increment and sales tax it produces and the less appealing it is to investors, so if anything gets done it will require lots of borrowed money to stimulate the investors. Poor location is a disincentive which even massive infusions of borrowed money can't cure.

Easily overlooked is the fact that the agency might even lose taxes by tearing down buildings and suffering a long wait before new construction takes place.

## "CATALYST"

The word "catalyst" is frequently used to describe the investment of redevelopment funds to attract private investors. Catalyst is a pleasant sounding word and creates favorable associations. The truth is, however, the word is extremely inappropriate to describe the cure for the worst case of blight just described. Here, what is needed is not a catalyst, but a mass infusion of funds--and a critical eye to see that the full cost is recorded.

For the other extreme, a new shopping center next to a freeway exit--newdevelopment--, no catalyst is needed, nor should it be used. A high ratio of private capital to agency capital usually shows the project would have been successful without redevelopment. But remember, the purpose of redevelopment is to eliminate blight, not to build new shopping centers.

Many projects fall in between these two extremes and will prosper or falter depending on their relationship to these extremes. The result is that agencies sometimes try to include some projects which produce "fast" money, newdevelopment, to compensate for projects which produce "slow" money--or no money. Remember, a new city hall, library, drainage facilities, roads, and schools, for example, don't produce any tax increment or sales taxes. Notice that almost everything on Vista's "wish list" is in this latter category. The "successful" projects in between the extremes are generally a result, not of a catalyst, but of long term and alarming debt.

## "ATTRACTIVE DOWNTOWN"

"Don't you want an attractive revitalized downtown?"

Sure, but not the revitalization of private property at taxpayers' expense. The City is not going to revitalize my 30 year old house, and neither should the City pay the bill to bring downtown shops up to current market standards.

The City has an obligation to keep the streets, sidewalks, streetlights, and related items in good repair, and can even go much farther in adding beauty: brickwork, undergrounding, more attractive street lights, fountains, and other amenities, but these things are expensive and should be added only as the City has the ability to pay under normal budget procedures, or with two-thirds voter approval for general obligation bonds.

I'm all for beauty, but we're fooling ourselves in believing that the MAGIC of redevelopment will pay for it without cost. Beauty, yes, but with understanding of its cost and the willingness to pay.

## "NO GROWTH", "ANTI-BUSINESS"

The proponents of redevelopment frequently charge the opponents with being "no growers" and "against business." Both statements are untrue. My philosophy has long been, "Let's share our community with others, but not to the extent that we destroy it for all of us."

There is lots of money to be made in urbanization, and redevelopment is a useful tool in pushing growth excessively without the restraints of normal financing.

The "anti-business" claim is made principally by some property owners who want something for nothing. They want redevelopment to pay the bills to refurbish their property, which in many cases is about 50 years behind the times. We recognize that a prosperous business community is vital and desirable, but not when it must depend on government subsidies.

"UNDEMOCRATIC"

In Vista the charge is often made that since the redevelopment agency has been established after having gone through all the necessary legal procedures, the opponents are now being undemocratic by continuing to oppose redevelopment. The proponents apparently have forgotten that they too challenged the process when they took the result of the 1985 election to court. Here the vote for redevelopment was a tie until the judge, after examine only 6 of approximately 70 defective ballots, ruled 4 of them were "Yes" votes to break the tie--a most remarkable demonstration of the "will of the voters".

There is nothing undemocratic in challenging any action; in fact one great virtue of democracy is the very availability of challenge. By contrast, one great weakness of totalitarian rule is that stupid decisions are confirmed by "yes men" surrounding the ruler or rulers.

In addition, all the legal procedures have not be completed until the 60 day validation period is over, and my legal challenge was filed within that period. The redevelopment process would be greatly improved if more challenge and oversight were provided.

Democracy is an ongoing process and requires eternal vigilance.

Part VIII  
WHAT'S HAPPENING TO OUR NEIGHBORS?

San Marcos, Vista's neighbor to the southeast, is often held up as a shining example of successful redevelopment. It has boasted that even after just a few short years of existence, it is already capable of paying of all its debts.

It has also boasted that it hasn't torn down one old building and that all its activities have been for building the new infrastructure for its booming growth. In more accurate terms, San Marcos is a perfect example of the epitome of redevelopment abuse; its action is newdevelopment, not redevelopment, and the agency is being sued. A challenge by the Legal Aid Society over the misuse of the 20 percent housing fund was settled out of court. The agency has just approved a \$50 million bond for a new city hall, library, and community center.

What should be realized is that its subsidy for the Price Club to locate on a completely unblighted piece of land next to a freeway exit, is providing the agency with so much sales tax that the subsidy will be paid back in a very short time--or perhaps it already has been.



On the other side, Oceanside tore down a whole block of aging, but hardly blighted businesses, and it's been vacant for several years. Taxwise this project so far has been a huge drain rather than a tax gain. The agency is still negotiating for high rise development, an excellent example of development decisions to be made long after the plan was first adopted including decisions about what the physical and financial features might be.

Oceanside, like Vista, has an ordinance which requires that before a new city hall is built, the project must be approved by the voters. The redevelopment agency, however, has circumvented this ordinance by building a new \$30 million structure--without voter approval. It provides a fitting atmosphere for the council to solve its current multimillion dollar deficit.

The agency has been instrumental in relocating the downtown railroad yard and improving street access to the beach, but whether the benefits outweigh the tremendous cost cannot be proven at this time.

Carlsbad's agency has been aided by millions in federal grants. It has beautified the old downtown area but provided it with less parking. When I tried to get figures on costs, I was told it was hiring a consultant to give it the answers. The agency recently was sued to prevent the use of the 20 percent low cost housing money for a senior center. Currently, a controversial beach art project, paid for with \$380,000 from redevelopment funds, is stirring up a hornets' nest of protest from irate citizens.

Poway is also being sued by the Legal Aid Society. Its agency is charged with having diverted its 20 percent housing money, to improve streets and sidewalks and to build public projects to the tune of \$10 million. Poway's attorney says the city cannot afford to repay the housing fund, a perfect example of the misuse of redevelopment to finance public improvements mentioned earlier.

Hemet is one of the latest cities to discover the magic of redevelopment as a method of financing new schools. A newspaper article makes it look as though the school district doesn't expect to report its passthrough funds as income and thereby expects to be reimbursed by the State as I explained in Part III.

The Mission Viejo and Santa Ana plans are two more recent examples which appear to involve "creative financing" rather than curing blight.

Downtown Escondido had the first major mall in North County, but the building of the Carlsbad mall and the rising population to the south of Escondido made a new location more profitable. Land for the new North County Fair was added to the redevelopment project area even though it was almost vacant agricultural land, but near the freeway. Business in the Fair is booming, while the old downtown area is slowing down. Escondido is the perfect example of how an agency, in its preoccupation with shopping centers and sales tax rather than blight, can harm or help different areas of a city. The example shows, because of the ease in which the big stores can move from one shopping center to another, how uncertain real estate development can be.

Horton Plaza in San Diego is touted as an outstanding example of redevelopment success. Maybe so. If it attracts all the anticipated customers and continues to keep them, the bonds will be paid off in 25 years.

What happens to Mission Valley? A SAN DIEGO UNION article written shortly after the opening of Horton Plaza states:

Ironically, that period is virtually the same time it has taken to repair the damage to downtown retailing that was done by Hahn and other shopping center developers when they began building Mission Valley in 1961.

I wish them well, but if the project doesn't meet expectations, The Broadway and other big stores could move out just as Sears moved from Escondido's mall to the more profitable North County Fair.

One fact is certain: every citizen of San Diego is contributing to the financial well-being of a relatively few individuals connected with the redevelopment of Horton Plaza. Whether the citizens will benefit is highly debatable.

These few observations are by no means a complete evaluation of our neighboring redevelopment accomplishments. The purpose is to stimulate a more thorough investigation and evaluation of evidence closer to home.

Part IX  
BETTER ALTERNATIVES

The goal of redevelopment certainly is worthy; my criticism is aimed at the means by which the goal is accomplished. Criticism, however, is not very useful unless it is accompanied by

better alternatives.

Any public improvements to end blight for privately owned property (sidewalks, landscaping, streets, sewers, etc.) which redevelopment can accomplish, or to make unattractive property more valuable, can be accomplished better by voluntary improvement districts with the advantage that those who benefit pay instead of putting all the citizens in hock and essentially without their consent. Vista's South Santa Fe on both sides of the 900 block and south were greatly enhanced by an improvement district a few years ago. The City, has was its normal obligation, put in the center part of this major street.

There is a variety of these types of financing. One of the most frequently used is the 1911 Act for sewers. Mello-Roos financing can be tailor-made to fit a particular need (drainage, landscaping, sidewalks) or for a particular area (one, or many blocks). Improvement districts can be formed only if a majority of property owners in a selected area approves. The North Melrose assessment district which was turned down a few years ago is an excellent example of the property owners' ability to make their own decisions. We should begin on a small scale and proceed cautiously.

The city itself can put in public improvements, as can the county and the school district. Schools in California are not blighted; they are overcrowded because of newdevelopment--which did not pay its way. Because the validation suit held up some of Vista's redevelopment funds, the agency transferred some redevelopment project to the city's capital improvements program as it could afford them. Any city project which would require large amounts of borrowed money, however, would require two-thirds voter approval for general obligation bonds.

Improvement to private property is a different situation. Of course the blighted property owners can always join together and make significant improvements, but the fact that they haven't used this approach is one of the reasons for the blight in the first place. There is nothing to prevent the city from aiding and encouraging them, but not to the extent they could expect from a redevelopment agency. Or, a private developer conceivably might buy or lease the property if the price and conditions could justify his investment.

Individual nuisances can be condemned by the city without redevelopment, and the City of Vista has used this method several times.

Or, if the blight is so extensive and of such a nature that, as in the redevelopment code, improvements cannot be accomplished by private enterprise acting along,<sup>51</sup> and the property is a danger to the general welfare, the council can borrow money with the approval of two-thirds of the voters to buy a specific blighted area. It can then be sold to private developers. If the whole city clearly benefits, the whole city can be included in an improvement district with varying amounts of benefits and costs.

Voter approval of specific financing for specific projects is one of the key differences which sets this type of financing apart from redevelopment. Under redevelopment the agency, usually five members, makes all the decisions and for many years into the future without oversight. The other key difference is that the money is not taken away from the other tax bodies especially the school district.

To get the approval of the voters, they must understand the project, including its planning and cost, and be willing to pay, in contrast to the redevelopment idea that the financing is painless and without burden to anyone. When voters understand the issues, the project can have constant public scrutiny; under redevelopment there is no citizen oversight.

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<sup>51</sup> Health and Safety Code 33352(a).

The city, like the redevelopment agency, can also borrow without voter approval, although I do not approve of this practice except for minor and short term situations. Revenue bonds, where the anticipated revenue from a project provides the security for the bond holders, and notes of anticipation and participation are other examples of risky and expensive financing alternatives.

Providing low and moderate housing is an extremely difficult and complex social problem, much beyond the capabilities of a redevelopment agency. Vista should establish a citizen Housing Authority to plan for collecting its primary revenue from the whole area rather than from just the blighted project area.

Low cost housing and aid for mobile home residents in buying their parks similarly can be provided by voter approved bonds, or by revenue bonds. Even better, the residents of three Vista parks have bought their parks without either redevelopment money or city financing, and a fourth park purchase is in progress.

Another alternative is the use of fees. Every time another residence or business structure is built, the burden on the infrastructure increases. Fees collected before the problems arise enable the city to pay the costs without looking for some magic source of income afterwards.

The lack of adequate fees is the motivating force for redevelopment for many or most of Southern California councils. Why make the developers who put them in office pay, when you can get financing via redevelopment?

Or, like a subsidy, fees can be waived as an inducement, but this device should be used only if it is for the general welfare rather than the benefit of a few property owners.

The necessity for revitalization of the whole project area may not be as urgent as the proponents picture it. Much of downtown Vista is old and behind the times, but does not in any degree match the code requirement for blight, and many court cases have strongly established the fact that just improving the economic activity cannot be used to justify the extraordinary powers of redevelopment.<sup>52</sup>

If our downtown area were as blighted as is claimed, its assessed value wouldn't have increased 42 percent the first two years without any physical redevelopment activity at all.<sup>53</sup> That figure is even higher than the second consultant's estimate of between 6 and 12 percent yearly under redevelopment. Why redevelop?

Certainly improving the 500 block of South Santa Fe is desirable, but that wish is not of sufficient weight to invoke the heavy force of redevelopment, or to justify the whole 2106 acres in the Project Area of even just Areas C and C as being "predominantly blighted."

It is every evident that no revitalization of our older downtown section to the degree envisioned by the proponents of redevelopment is possible at this time, or by any other method. To reach their goal will require much more traffic and customers, and that condition won't arrive until all the better locations are filled and the whole area is completely urbanized. Then the cost of good locations will become so expensive that tearing down or refurbishing old buildings in other locations might become possible.

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<sup>52</sup> Regus v. City of Baldwin Park (1977) 70 CA 3d. 968 and Emmington v. Solano County Redevelopment Agency 195 Cal. App. 3d.

<sup>53</sup> See Part V.

Currently there is no way downtown Vista is going to compete with the large volume types of businesses in the shopping centers, and the creation of walk-through garden type district with traffic diverted around it is even less viable. We'll end up with fewer customers than we have now. There may be a few successful project, perhaps in very affluent areas, but many of them are being abandoned, perhaps as their subsidies run out.

The cost for this degree of revitalization is too great and the resulting rents are too high for the amount of business they can attract currently and in the foreseeable future. The agency can spend millions buying the Lincoln School and building those two bypass streets, and the result will be a business district starved for customers.

San Louis Obispo is frequently suggested as a model for us to follow. It is an attractive model but it didn't have to create a "garden type atmosphere," and its creek needed only to be cleaned up. In contrast, finding a new site for the Lincoln School would be difficult, and tearing down and replacing our old buildings, recreation of the creek, and building new streets would be tremendously expensive.

I like the idea of making use of the creek rather than considering it a blemish to be hidden. Until the taxpayers understand the cost of downtown renovation and are willing to pay, however, until the idea is abandoned that under redevelopment all these improvements are free--we would best limit our action and expenditures to planning and learning the characteristics of realistic financing.

Currently we should set our sights on a lesser degree of sales tax production, and more on office and professional type of activity and public structures. I would abandon the two bypass streets entirely, and if the property owners want to bring their investments up to current standards, they can form an improvement district to improvement district to provide offstreet parking, a must for today's marketing. For the ultimate in renovation, a city-wide improvement district could be formed, with a higher tax for downtown property owners, a much lower tax for adjacent areas, and a small tax on the outlying areas.

Parks are always targets for locating a great variety of worth buildings because the land is "free", and currently there is a movement to build a large theatre complex in Brengle Park. I strongly believe in parks, but they should be for outdoor activities, or just plain quiet greenery. A much better location for the theatre complex would be downtown, where people could much better assemble and patronize restaurants. It would also be a favorable location for the library and a swimming pool, and as in Escondido, the city hall and theatre.

The area occupied by Peto's is a valuable location, but a change of use should be left to private developers when the conditions are favorable. The area is not deteriorating and does not need public money to promote the general welfare of our citizens.

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A partial alternative: suspend the agency's operations, but not completely terminate the agency itself. If the ordinance which created the redevelopment agency is repealed, the city/county must assume any agency liabilities, but if the city/county is not financially able to assume them, the agency can at least dismiss its staff, wind down its activities, and the city/county can plan for a gradual assumption of the debts.

A comment on three ineffective "mini-redevelopment" alternatives. Vista's Mainstreet Program to revitalize the downtown area has been hailed by the State director of the Program as a model because it has been so successful. I suspect that rating is more to bolster her own rating than anything else. The City of Vista or the Redevelopment Agency has contributed \$150,000 over the last five year<sup>54</sup> and staff time and rent, plus county grants, but the effort has not increased the number of businesses not the sales tax. The only successful aspect has been the Farmers' Market, and it has blossomed because of itself, not from efforts of the Mainstreet Program. The Program has been administered by the Vista Town Center Association, and its records are in disarray. The Program is another example, like redevelopment, of throwing public money into promotional efforts to cure private economic problems.

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<sup>54</sup> City of Vista Finance Dept.

Another is VEDA, the Vista Economic Development Agency, which has been given \$200,000 over the last four years<sup>55</sup> plus county grants. Its purpose essentially is to sell the new Sycamore Industrial park (Area A) of the Redevelopment Project Area. This park is well designed, very valuable, and utterly devoid of need for public funds to promote it.

It is most ironic that VEDA's new \$8,400 video, featuring all of Vista's sunshine, flowers, and attractive attributes, includes the Industrial Park (Area A), North County Square (Area B), and the County Courthouse--but of course, the video doesn't mention that they are "blighted" in the redevelopment plan.

The purpose of the Chamber of Commerce is to improve and promote local commerce, but its essential efforts instead are to sell real estate; it should be renamed "The Chamber of Realtors." This bastion of free enterprise also has been subsidized by the city for many years, the last seven years' contributions (91/92-85/86) totaling \$217,800,<sup>56</sup> plus county grants.

It should be noted that, for the most part, the officers of these three organizations are pretty much the same, with exchanges of titles from year to year.

These organizations, like redevelopment, have worthy objectives, but their accomplishments in economic development and revitalization have been negligible.

Our alternatives can be greatly increased by better state legislation, described in the following part.

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<sup>55</sup> City of Vista Finance Dept.

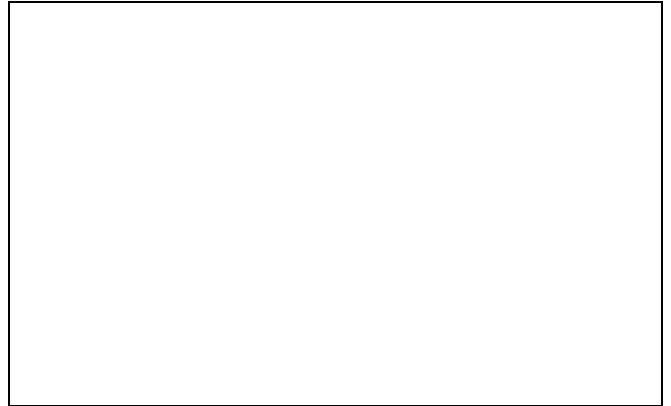
<sup>56</sup> *ibid.*

Part X  
BETTER LEGISLATION

We desperately need new state legislation on redevelopment. First I'll discuss what we should be working on right now.

We need uniform accounting for all the agencies in the state, and a state department to oversee their activities. Currently several reports must be submitted to several state departments, but since each agency has its own accounting systems, the information is quite chaotic, no one checks to see if it is accurate, and worse, practically nothing is done with it to enforce the code. The State Department of Education, especially, should be required to provide data on how much is lost to redevelopment, and to see that all redevelopment benefits to each school district are reported as income.

Each agency should be required to produce a uniform yearly cost/benefit statement so that the local taxpayers can evaluate the activities of the agency. Property, sales, income, and other taxes from each parcel in the project area should be reported from years before and after redevelopment so that accurate benefits can be determined.



That state department must also have the authority to see that redevelopment is used to cure blight and is not used as a device to finance newdevelopment or anything else the agencies want. The definition of blight must be greatly improved. Agencies should be required to submit proof of blight, parcel by parcel, including proof of perhaps ten years of economic blight taken from this data. Similarly, proof should be provided that the general welfare is benefited rather than the interests of a few property owners.

Currently the only oversight is a validation suit which is both costly and untimely (within 60 days after the plan is adopted), and dependent on the chance action of some individual or group. Challenges to the plan and the decisions of the agency should be facilitated. The conclusive presumption of the EIR should be eliminated. There is no limit on what the agency can spend on litigation; Vista spent an enormous amount opposing my validation suit, and the judicial system can produce some very strange decisions, to put it mildly.

Currently a very broad plan is adopted at a public hearing, but the real important decisions are made much later, usually many years later, at which time voter approval is totally absent. I recommend instead that each specific project and its costs and financing be voter approved before it is ready for bids.

The power of condemnation and eminent domain should be reduced, and used only if a specific project is approved by the voters as just stated.

Overriding evidence should be required to show that the benefits of new businesses ( a new shopping center) will override the harm to existing businesses.

We need more meaningful restraints for amendments to the time limits on tax increment, on indebtedness, on eminent domain,<sup>57</sup> and on time limits on specific projects so that property finally gets back on the tax rolls, and the uncertainty to property owners is ended. If a project is successful, redevelopment is no longer needed; if the project is unsuccessful, it should be terminated.

Special legislation for individual agencies should be resisted, otherwise the code becomes a non-code.

Following are some recommendations for legislation which will take some additional effort to enact.

Gifts and loans of city funds and city-wide sales taxes to the agency should be allowed only with voter approval. Likewise, the use of city staff and equipment should be provided only if they are properly paid for. Redevelopment is based on giving the agency the extraordinary powers of collecting the tax increment from within the project area. It is unjust to use funds which come from outside the project area without the approval of the taxpayers; it is skewed bookkeeping not to acknowledge all costs.

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<sup>57</sup> Health and Safety Code 33333.2.

The low and moderate housing section should be removed. The relationship between redevelopment and housing does not always exist, and the financing and implementation should be on a much broader basis. All of our citizens should be involved in order to recognize the costs and problems, and to ensure that they are not overlooked.

I oppose proposed legislation to allow agencies to transfer housing funds to other jurisdictions. This proposal defeats the purpose of low and moderate housing. If an agency encompasses an area so affluent that it can't find a place for low and moderate housing, redevelopment isn't needed.

Also removed should be the special supplemental subventions which the State gives to redevelopment agencies annually to partially offset the elimination of state subventions for the business inventory exemption: 1984/95 \$41.7 million, 85/86 \$50.4 million, 86/87 \$33.3 million, 87/88 \$38.2 million.<sup>58</sup> This left-handed device should be eliminated because redevelopment is too far removed from the unrelated issue of inventory taxation.

Solid and substantial two-thirds majority approval for all large expenditures should be required for all bonds, including those used for joint power agencies, revenue bonds, notes of anticipation and participation, and similar financing devices. Tax increment bonds especially should require two-thirds voter approval because of their controversial nature.

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<sup>58</sup> REDEVELOPING CALIFORNIA, page B-48.

Currently fees must be justified and cannot exceed verified costs, but approval of inadequate fees can be just as unjust on the taxpayers who are then asked to make up the loss.

Perhaps my most controversial recommendation is the abandonment of incremental taxation; I have presented much evidence of its shortcomings. The elimination of blight is a community-wide problem, and the financing for its elimination should come from a much broader and more solid basis. We are now merely taking money out of one pocket and putting it into another, and fooling everyone into thinking we're getting something for nothing. We are rewarding those cities which take, and penalizing those which don't.

By now you can see I favor replacing the whole redevelopment code with a new code which would greatly reduce the power of the agencies and make them subject to meaningful oversight. I recognize the need for curing blight, but the current code is not doing the job, and has resulted in the impression that redevelopment is a magic financing tool which doesn't cost anyone anything. The truth is that curing blight is costly; the taxpayers must be made aware of the costs, and their approval must be obtained.

We need legislation to avoid blight before it starts, rather than to fix it up afterward.

Improvements should not be penalized. There is very little relationship between property taxes and the benefits received. Now, the more property is improved, the higher the tax. this change would encourage owners to keep their property up to date.

Instead of giving depreciation credits, we should provide appreciation credits. Buildings, like people, get old. Shopping habits change. Now, depreciation credits encourage owners to let their property run down, to milk as much as they can from their investment, and then ask for a government handout. This explanation might show why some of the property owners are supporting redevelopment; they expect a better deal from the agency than the market currently will give them.

All cities now apply conditions on new development such as landscaping, set-backs, height, and similar requirements, and many have architectural review. Similar conditions should be applied also to renewals of old property for owners to get an appreciation credit. European cities long have had architectural controls on structures, many of which are centuries old.

We should revise our tax codes to make taxes correspond to government services received, to location, to ability to profit, and to other benefits. We should abandon the idea of trying to make business pay our bills.

Proposition 13's prohibition of land transfer taxes should be repealed; the increased value of land from increased population should be used for the needed increased population should be used for the needed increased infrastructure. This revenue would decrease the temptation to misuse redevelopment.

Sales taxes should be returned on a per capita basis rather than to the point of origin. Now, customers from Vista pay their sales taxes at the Mall in Carlsbad or at other neighboring shopping centers, but Vista receives none of the local tax benefit. All cities are feverishly trying to encourage shopping centers from the mistaken canon that more centers produce more taxes. Instead we should let the centers be built at convenient locations, rather than as a prize in a game. Sales taxes are unjust, but as long as they exist they should be returned on a pre capita basis as are gasoline taxes. Redevelopment could then concentrate on curing blight.

Basic to all beneficial legislation is the need for limits on campaign contributions and spending, for full disclosure, and for term limitations on the local level as well as on the state and national level. Even then, someone will find a way to evade the goals of the best legislation, but at least it will help educate us to realize there is no MAGIC system for which no one has to pay, for getting rid of blight.

Finally, some even more fundamental and drastic changes. It is the nature of cities to wax and wane and for blighted areas to evolve. The basic causes of this problem and their solutions are myriad, but especially related are speculation in land and an irrational money and banking system which I'll expound on at a future date.

Meanwhile, this review of redevelopment will have been worthwhile if I can get more citizens aroused to alter the course of this financial juggernaut.

## Part XI HISTORY

This short history of redevelopment in Vista shows what might happen in other communities, and may be especially revealing to those naive souls who expect justice in the courts.

Our council established an agency in 1969, but never took any steps to create a plan. Then in 1975 the enabling ordinance was repealed by an initiative petition and an election with a 3-1 majority.

Ten years later in 1985, after massive spending by both private interest proponents and the city council, Proposition K to reactivate the agency as defeated with a tie vote!

The defeat didn't last long; Superior Court Judge Lopardo, after examining only 6 of approximately 70 rejected ballots, ruled that the proposition had passed. Subsequently Judge Kapiloff called opponents "snakes in the grass" for challenging the judgment.

Another initiative petition, to repeal Proposition K, was defeated in 1986 again after lopsided spending by the council/agency/developer proponents. It is unlawful for a council to use tax money to influence an election, but the public agencies which are supposed to guard against such abuses can be quite ineffective, and legal action by citizens is both costly and risky.

In 1987 an advisory plan was adopted by the voters, again with massive promotion funds, and on July 7, 1987, the council adopted the Plan and Project Area.

Opponents called the Plan an octopus because, instead of embracing just the older parts of town which conceivably could be called "blighted", it followed all the major streets to include all of the most valuable and tax-producing properties. The Plan included the banks, the county court house, major shopping centers, and all the new medical/dental facilities on West Vista Way bordering Highway 78 to Oceanside and the vacant land on the south side of 78. The most flagrant distortions of the redevelopment law, however, were the inclusion of the newly developing but mostly vacant Sycamore Industrial Park (Area A), with its attractive architecture and landscaping, and the completely vacant area adjacent to National University bordering the freeway and the Sycamore exit (Area B). Both areas are noncontiguous to and miles away from downtown. Both areas were and still are the most valuable land in Vista, and with the greatest economic potential--just the opposite of blight. Estimates are, these two "blighted" areas will produce 60-70 percent of the tax increment.

I challenged the Plan in a validation suit but almost before it got started, the city, represented by one of the most prestigious law firms in San Diego, got a summary judgment from Superior Court Judge Jeffery T. Miller because since everything in the EIR was "conclusively presumed," there was no need for a trial!

I appealed this preposterous decision solely on that ground and the appellate court agreed with me, ruling that the conclusive presumption extended only to the environmental issues but not to all evidentiary issues.

Then without briefing or arguments from either the city or myself, the court ruled summary judgment was warranted on matters relating to Areas C and D, but not on Areas A and B for which additional evidence might be found.

The appellate court refused to rehear despite Government Code 68081 which said a rehearing must be granted if an issue had not been briefed. The courts have tremendous power to ignore their errors or maintain their tradition of seldom rehearing cases.

So I appealed to the California Supreme Court. This court does not decide cases on their merits, but instead accepts only cases which have a broad basis which will set precedents for other cases. The court denied my petition, although one justice voted to accept.

Back to Superior Court where Judge Kevin Midlam completely ignored my evidence that Areas A and B were neither urbanized nor blighted, and were included only to collect their taxes, all explicit violations of the heart of the redevelopment code. Instead he accepted a stack of Citizen Advisory Committee (CAC) minutes and a boxful of documents labeled "Administrative Record" as additional evidence warranting the inclusion of Areas A and B.

I objected to the inclusion of this hodgepodge of legal notices, repetition from the first appellate review, evidence actually damaging to the CITY's position, erroneous advice, broad references to redevelopment in general including newspaper clips, editorials, bylaws, state laws, agendas, minutes of council meetings, resolutions, CAC minutes, and much repetition--because most of it had not been introduced into the administrative record, as required by law, and what had been introduced was not additional evidence as required by the appellate court.

In addition the judge allowed two CITY witnesses to testify although both the witnesses and the "Administrative Record" had not been declared in the discovery period as the code requires. It was an amazing trial.

Back to the appellate court which finally agree with me that Areas A and B were not urbanized (Health and Safety Code 333201.1, test 1), but then came the incredible and contradictory decision that the were urbanized because they were an integral part (test 3) of the downtown area, although they are noncontiguous and miles away from downtown and each other! The court could logically have used either test, but not both if they contradicted each other.<sup>59</sup> The court found that lack of roads in A and B hindered the development of downtown, completely ignore the fact that A was 85 percent vacant and B, totally vacant. The court also ruled that the mayor's admission that they had been included for taxes was "irrelevant."

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<sup>59</sup> A statue must be construed in context: Dyna-Med. Inc. v. Fair Employment and Housing Com. (1987) 43 Cal. 3d, especially 1387.

Again the appellate court bowed to tradition and refused to rehear the case, and again the Supreme Court declined to review, apparently too busy with execution appeals.

So you see, don't expect our courts to make your redevelopment agency toe the line. A much wiser course: don't create this magical Aladdin's lamp in the first place.

I'm still thankful I live in a country which has a system of laws and courts, but I would be even more thankful if Justice had opened one of her eyes just a little to see what any man or woman on the street can see--that redevelopment in Vista has been grossly violated.

